SAN FRANCISCO PUBLIC LIBRARY
3 1223 06447 2849

5/S

San Francisco Public Library

Government Information Center
San Francisco Public Library
100 Larkin Street, 5th Floor
San Francisco, CA 94102

REFERENCE BOOK

*Not to be taken from the Library*

# SAN FRANCISCO PORT COMMISSION

**Wilfred Hsu, President**
**Michael Hardeman, Vice President**
**Kimberly Brandon, Commissioner**
**Sue Bierman, Commissioner**

**Monique Moyer, Executive Director**
**Phone: 415-274-0400; Fax: 415-274-0412**

**Amy Quesada, Commission Secretary**
**Phone: 415-274-0406; Fax: 415-274-0412**

SF
P55
#1
5/11/04
c.2

## AGENDA

**REGULAR MEETING**
**3:00 P.M., TUESDAY, MAY 11, 2004**
**PORT COMMISSION HEARING ROOM, 2ND FLOOR**
**FERRY BUILDING, SAN FRANCISCO, CA 94111**

***The Port Commission Agenda as well as Staff Reports/Explanatory Documents available to the public and provided to the Commission are posted on the Port's Website at www.sfport.com.***

DOCUMENTS DEPT.
MAY - 7 2004
SAN FRANCISCO
PUBLIC LIBRARY
05-07-04P04:03 RCVD

**1. ROLL CALL**

**2. APPROVAL OF MINUTES** - April 27, 2004 Meeting

**3. EXECUTIVE**

A. Executive Director's Report

- New Executive Director's Welcome Remarks
- KFOG Kaboom Fireworks Display on the Waterfront
- Hi-Dive Restaurant Grand Opening
- Record Cruise Business for Port of San Francisco

**4. CONSENT**

A. Request for Consent to Use Portions of the Ferry Building Perimeter Easement and Access Easement for Temporary Farmer's Market Retail Kiosks and Carts pursuant to the Ferry Building Lease between the Port Commission and Ferry Building Investors, LLC. (Resolution No. 04-39)

**5. PLANNING & DEVELOPMENT**

A. Request for authorization to issue a Request for Proposals for a Feasibility Study of Shoreside Power and Alternative Air Emission Technologies for Cruise Ships Berthed at the James R. Herman International Cruise Terminal at Piers 30-32. (Resolution No. 04-40)

3 1223 06447 2849

## 6. ADMINISTRATIVE SERVICES

A. Request for approval of a Supplemental Appropriation to authorize expenditure of $1,160,000 in Unappropriated Operating Reserve Funds to pay one-half of a court judgment in F. Alioto Company, Inc. v City and County of San Francisco Case No. 318360 associated with the Wharf J-10 Lease. (Resolution No. 04-41)

## 7. NEW BUSINESS/PUBLIC COMMENT

- Architectural Foundation of San Francisco/Build San Francisco

Public comment is permitted on any matter within Port jurisdiction and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. A member of the public has up to three minutes to make pertinent public comments before action is taken on any agenda item and during the new business/public comment period. It is strongly recommended that public comments be submitted in writing so they can be distributed to the Commissioners for their review. Please fill out a speaker card and hand it to the Commission Secretary. If you have any question regarding the agenda, please contact the Commission Secretary at 274-0406.

## 8. EXECUTIVE SESSION

A. Vote on whether to hold closed session to confer with Legal Counsel and Real Property Negotiator.

B. CLOSED SESSION

(1) PUBLIC EMPLOYEE APPOINTMENT/DISMISSAL/RESIGNATION – This is specifically authorized under California Government Code Section 54957.

- Consideration and Possible Action on Public Employee's Appointment/ Dismissal/Resignation – Deputy Director of Port (No. of Employees Affected 5).

(2) CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING LITIGATION MATTER (Discussion and/or Action Item)

a. Discuss existing litigation matter pursuant to Section (a) of California Government Code Section 54956.9 and San Francisco Administrative Code Section 67.10(d) (1 case):

- Patricia Ann Tanzer v. Pier 39, City and County of San Francisco, et al. San Francisco Superior Court Case No. 324020, filed October 25, 2001. (Discussion and/or Action Item)

  Discussion of plaintiff's offer to compromise pursuant Code of Civil Procedure 998, for the sum of $90,000.

(3) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – This is specifically authorized under California Government Code Section 54956.8.
***This session is closed to any non-City/Port representative. ****

a. Property: Francisco Bay Office Park (Seawall Lots 315, 316 and 317)
Person Negotiating: Port: Byron Rhett, Director of Planning & Development
*Exploratorium: Dr. Goéry Delacôte

Under Negotiation: _____ Price _____ Terms of Payment __X__ Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at SWL 315, 316 & 317.

b. Property: Piers 27-31
Person Negotiating: Port: Byron Rhett, Director of Planning & Development
*Piers 27-31 LLC: Steve Jacobsen

Under Negotiation: _____ Price _____ Terms of Payment __X__ Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at Piers 27-31.

c. Property: Pier 43
Person Negotiating: Port: Ken Winters, Director of Real Estate
*Franciscan Restaurant: Kevin Westlye

Under Negotiation: ___ Price ___Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at Pier 43.

d. Property: Seawall Lot 349
Person Negotiating: Port: Ken Winters, Director of Real Estate
*Delancey Street: Mimi Silbert

Under Negotiation: ___ Price ___Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at Seawall Lot 349.

e. Property: Pier 92
Person Negotiating: Port: Ken Winters, Director of Real Estate
*Specialty Crushing: Tom Chasm

Under Negotiation: _____ Price _____ Terms of Payment __X__ Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at Pier 92.

**9. RECONVENE IN OPEN SESSION**

A. Possible report on actions taken in closed session pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.

B. Vote in open session on whether to disclose any or all executive session discussions pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.

**10. ADJOURNMENT**

## MAY 2004
## CALENDAR OF UPCOMING PORT MEETINGS - OPEN TO THE PUBLIC

| Date | Time | Group | Location |
|---|---|---|---|
| **May 11** | **3:00 p.m.** | **Port Commission** | **Port Commission Room @ Ferry Building** |
| **May 25** | **3:00 p.m.** | **Port Commission** | **Port Commission Room @ Ferry Building** |

**NOTES:**

The San Francisco Port Commission meets regularly on the 2nd and 4th Tuesday of the month at 3:00 p.m., unless otherwise noticed. ***The Commission Agenda and staff reports are posted on the Port's Website @ www.sfport.com.*** Contact Amy Quesada at 274-0406.

The Brannan Street Wharf Citizens Advisory Committee meets on an as-needed basis to develop a concept plan for this planned open space in the South Beach area. Meetings are held in the Bayside Conference Room at Pier 1. Contact Dan Hodapp @ 274-0625 or dan_hodapp@sfport.com

The Cruise Terminal Environmental Advisory Committee generally meets the third week of each month. Date and time to be determined. Contact Michael Nerney at 274-0416.

The Environmental Quality Advisory Committee (EQAC) meets regularly on the fourth Thursday of the month at 9:00 a.m. at Scoma's Restaurant, Pier 47 @ Fisherman's Wharf. Contact Jay Ach @ 274-0562.

The Fisherman's Wharf Waterfront Advisory Group meets regularly on the 3rd Tuesday of the month. The regular meeting time and place is 9:00 a.m. at Scoma's Restaurant, Pier 47 at Fisherman's Wharf. Contact Kirk Bennett @ 274-0545.

The Maritime Commerce Advisory Committee (MCAC) meets on a bi-monthly basis, on the third Thursday of the month, from 11:30 a.m. to 1:30 p.m. @ Pier 1. Contact Jill Rodby @ 274-0519.

The Mission Bay CAC meets regularly on the 2nd Thursday of the month, from 5:30 to 7:30 p.m. at the Mission Bay Visitor Center (255 Channel Street). Contact Tiffany Bohee at 749-2481 for more information.

The Northeast Waterfront Advisory Group meets regularly on the 1st Wednesday of the month at 4:00 p.m. in the Bayside Conference Room @ Pier 1. Contact Kirk Bennett @ 274-0545.

The Pier 70 Advisory Group meets monthly on an as-needed basis generally on the 2nd Wednesday of the month from 4 to 6 p.m. at the Potrero Campus of the California College of Arts and Crafts, Board Room, 1111 – 8th Street between Irvin and Hooper. Contact Mark Paez @ 705-8674.

The Rincon Point-South Beach CAC meets regularly on the 3rd Monday of the month, from 5:00-7:00 p.m. at the South Beach Yacht Club (Pier 40 on The Embarcadero). Contact Tiffany Bohee at 749-2481 or 749-2400 for more information.

The Southern Waterfront Advisory Committee (SWAC) meets every 1st Wednesday of the month from 6:15 to 8:15 p.m. Location to be determined. Contact David Beaupre @ 274-0539 or david_beaupre@sfport.com.

The Waterfront Design Advisory Committee meets the 3rd Tuesday of the month from 11 a.m. to 1 p.m. in the Bayside Conference Room @ Pier 1. Contact Dan Hodapp @ 274-0625.

## ACCESSIBLE MEETING INFORMATION

**Ferry Building:** The Port Commission Hearing Room is located on the second floor of the Ferry Building. The main public entrance is from the west (Embarcadero) side and is served by a bank of elevators adjacent to the historic staircase. Accessible public restrooms are on the first floor at the northeast end of the building as well as on the second floor across the lobby from the Port Commission Hearing Room. The main path of travel to the Port Commission Hearing Room is equipped with remote infrared signage (Talking Signs). The Port Commission Hearing Room is wheelchair accessible. Accessible seating for persons with disabilities (including those using wheelchairs) is available. The closest accessible BART and MUNI Metro station is Embarcadero located at Market & Spear Streets. Accessible MUNI lines serving the Ferry Building area are the F-Line, 9, 31, 32 and 71. For more information about MUNI accessible services, call (415) 923-6142.

The nearest accessible parking is provided in the following off-street pay lots:

A) 3 spaces in the surface lot on the west side of the Embarcadero at Washington St.
B) 3 spaces in the Pier 1/2 lot, located on the east side of the Embarcadero between the Ferry Building and Pier 1. During business hours this lot is operated by valets
C) Hourly and valet parking in the Pier 3 lot. This lot is accessed through the Pier 3 bulkhead building entrance on the east side of the Embarcadero. This lot is located on the pier deck; adjacent to the ferry boat Santa Rosa.

Additional covered accessible off-street pay parking is available in the Golden Gateway Garage, which is bounded by Washington, Clay, Drumm and Battery Streets. Entrance is on Clay St. between Battery and Front Streets. There is no high-top van parking. Metered street parking is available on the Embarcadero, Washington St., Folsom St. and Drumm St.

**Pier 1:**
The Port's fully accessible offices are in the west end of Pier 1. There are two public entrances; the main entrance on the west (Embarcadero), and the Port History walk entrance on the south apron. Each of these entrances is provided with an automatically operated door. Both entrances lead to the Bayside conference rooms. Accessible public restrooms, drinking fountains, payphone and TTY are on the first floor near the main entrance. The public spaces of the Port's offices are equipped with remote infrared signage (Talking Signs) identifying all primary entrances, paths of travel, meeting rooms and amenities. Accessible seating areas and assistive listening devices will be available in the Bayside Conference rooms.

**Accessible meeting information policy:**
In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals. A sign language interpreter and alternative format copies of meeting agendas and other materials can be provided upon request made at least 72 hours in advance of any scheduled meeting. Contact John Scott, Port's ADA Coordinator, at 274-0571. The Port's TTY number is (415) 274-0587.

**Know Your Rights Under the Sunshine Ordinance**. Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact Donna Hall by mail: Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102, by phone at (415) 554-7724, by fax at (415) 554-7854 or by email at Donna.Hall@sfgov.org. Citizens may obtain a free copy of the Sunshine Ordinance by contacting Ms. Hall or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, at http://www.sfgov.org/sunshine.htm

**Lobbyist Registration and Reporting Requirements.** Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Government Conduct Code §2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness, Suite 3900, San Francisco, CA 94102, phone (415) 581-2300 or fax (415) 581-2317; web site: www.sfgov.org/ethics.

PORT OF SAN FRANCISCO

**MEMORANDUM**

May 6, 2004

**TO:** MEMBERS, PORT COMMISSION
Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Kimberly Brandon
Hon. Sue Bierman

**FROM:** Monique Moyer
Executive Director Monique D. Moyer

**SUBJECT:** Approval of Request for Consent to Use Portions of the Ferry Building Perimeter Easement and Access Easement for Temporary Farmer's Market Retail Kiosks and carts pursuant to the Ferry Building Lease Between the Port Commission and Ferry Building Investors, LLC.

**DIRECTORS RECOMMENDATIONS:** CONSENT TO USE PORTIONS OF THE FERRY BUILDING PERIMETER EASEMENT AND ACCESS EASEMENT FOR TEMPORARY FARMER'S MARKET RETAIL KIOSKS AND CARTS.

---

## BACKGROUND

Port Commission, by Resolution No. 99-67, approved a Ground Lease, dated as of April 10, 2001 ("**Ground Lease**"), by and between the Port Commission (the "**Port**"), as landlord, and Ferry Building Investors, LLC, a California limited liability company ("**FBI**"), as tenant, pursuant to which the Port has leased the Ferry Building to FBI for a term of sixty-six (66) years. The leased premises under the Ground Lease includes an outdoor area ranging from approximately 15 feet to 30 feet in width around the perimeter of most of the building, referenced in the Ground Lease as the "Perimeter Easement," and shown on the drawing attached hereto The leased premises also includes an area ranging from approximately 20 feet to 50 feet, adjacent to the Perimeter Easement on both the south side of the Ferry Building and a portion of the east façade of the Ferry Building, referenced in the Ground Lease as the "Access Easement," and shown on the drawing attached hereto.

This Print Covers Calendar Item No. **4A**

Under Section 3 of the Ground Lease, use of the Perimeter Easement is restricted to outdoor seating for full service and casual dining restaurants for consumption of food and alcoholic and non-alcoholic beverages, public access within those areas required by BCDC, and services provided for ferry passengers, including movable or temporary retail facilities, including kiosks and carts within public access areas. Section 3 of the Ground Lease also restricts use of the Access Easement to public access and ingress and egress to the Ferry Building Premises and the Ferry Plaza.

Although FBI has been using portions of the Perimeter Easement and Access Easement for the Saturday Farmer's Market, such use is not expressly permitted under the Ground Lease. FBI has requested formal approval of the use of those areas of the Perimeter Easement and Access Easement shown crosshatched on the drawing attached hereto for the setup of kiosks, retail food stands and associated vendor parking as part of a farmer's market during such times as FBI and/or FBA may elect to hold the farmer's market, but only to the extent, if any, permitted by BCDC ("Farmer's Market Uses"). To the extent that such areas have been dedicated as public access areas under the applicable BCDC Permit No. 1-00, BCDC has permitted such Farmer's Market Uses.

Section 3.1 of the Ground Lease provides that "Tenant shall not allow any changes or additions to the Permitted Uses or changes in its use or operation of the Premises that would be inconsistent with the Scope of Development or applicable BCDC permits without the prior written consent of the Port, not to be unreasonably withheld, conditioned, or delayed." Port staff believes that use of the applicable portions of the Perimeter Easement and Access Easement for the requested Farmer's Market Uses, and for the areas dedicated as public access, to the extent permitted by BCDC, is a reasonable addition to the Permitted Uses. Port staff therefore recommends approval.

Prepared by: Nicolas Dempsey, Asset Manager

**PORT COMMISSION**
**CITY AND COUNTY OF SAN FRANCISCO**

**RESOLUTION NO. 04-39**

WHEREAS, Section B 3.581 of the Charter of the City and County of San Francisco empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control Port areas of the City and County of San Francisco; and

WHEREAS, Section B 3.581 (g) of the City and County of San Francisco provides that lease granted and made by the Port Commission should be administered exclusively by the operating forces of the Port Commission; and

WHEREAS, The Port Commission by Resolution No. 99-67 approved a Ground Lease ("Ferry Building Lease"), dated April 10, 2001 by and between the Port Commission ("Port") as landlord, and Ferry Building Investors, LLC, a California limited liability company ("FBI") as tenant, and Ferry Building

WHEREAS, the Ferry Building Lease permits certain uses in the Ferry Building Perimeter Easement and Access Easement as said uses and Ferry Building Perimeter Easement and Access Easement are described in the Lease, and

WHEREAS, the Ferry Building Lease provides that the Port may consent to other uses in the Ferry Building Perimeter Easement, and Access Easement; and

WHEREAS, FBI has requested the Port's consent to use portions of the Ferry Building Perimeter Easement and Access Easement for the temporary placement of carts and retail kiosks involved with the operation of a Farmer's Market; and

WHEREAS, the Port agrees to consent to such use; now therefore, be it

RESOLVED that the San Francisco Port Commission hereby consents to include among the uses permitted in the Ferry Building Perimeter Easement and Access Easement described in the Ferry Building Lease, the temporary placement of Farmer's Market retail kiosks and cart; and be it further

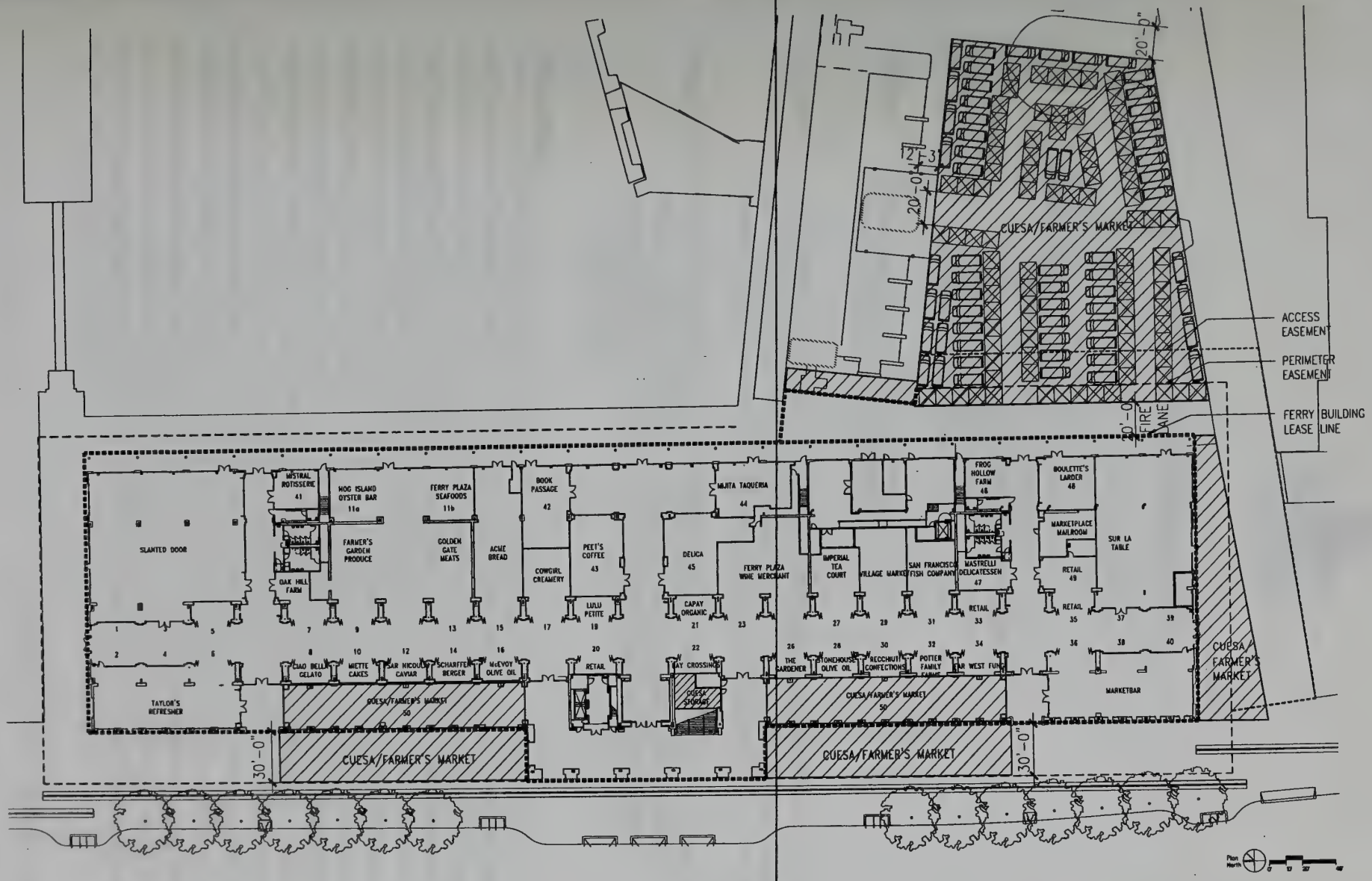
RESOLVED that the San Francisco Port Commission authorizes the Executive Director to execute a formal letter of consent approving the use of the Ferry Building Perimeter Easement and Access Easement for the placement of temporary Farmer' Market retail kiosks and carts in such final form as may be approved by the Executive Director in consultation with the City Attorney.

***I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of May 11, 2004.***

_____

**Secretary**

EXHIBIT A




# FERRY BUILDING THE EMBARCADERO · SAN FRANCISCO

MARKETPLACE AND PLAZA PLAN FM-1

PORT OF SAN FRANCISCO

**MEMORANDUM**

May 5, 2004

**TO:** MEMBERS, PORT COMMISSION
Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Kimberly Brandon
Hon. Sue Bierman

**FROM:** Monique Moyer
Executive Director

**SUBJECT:** Authorization to issue a Request for Proposals from qualified vendors for a feasibility study of shoreside power and alternative air emission technologies for cruise ships berthed at the James R. Herman International Cruise Terminal.

**DIRECTOR'S RECOMMENDATION**: APPROVE ISSUANCE OF A REQUEST FOR PROPOSALS FROM QUALIFIED VENDORS FOR A FEASIBILITY STUDY OF SHORESIDE POWER AND ALTERNATIVE AIR EMISSION TECHNOLOGIES.

**Background**

The Port of San Francisco is developing the new James R. Herman International Cruise Terminal and Mixed Use Project at Piers 30-32. On March 25, 2003, as part of the Final Supplemental Environmental Impact Report (FSEIR) process, the Port Commission adopted California Environmental Quality Act (CEQA) findings that discuss the significant environmental impacts of the Cruise Terminal project. The findings indicate that proposed mitigation measures reduce some impacts to levels of insignificance and identifies other certain unavoidable significant environmental impacts. The findings included a Statement of Overriding Considerations that specific economic, legal, social, and other benefits outweigh the significant effects on the environment. The CEQA findings also called for implementation of a Mitigation Monitoring and Reporting Program that includes, among other measures, establishment of air and water quality advisory groups to the Port Commission. These advisory groups will review potential additional mitigation measures for the air and water impacts of cruise ship activity at the Port and provide recommendations to the Port Commission. The Port Commission may then choose to implement those additional mitigation measures deemed feasible. One area of review includes the use of technologies, including but not limited to shoreside power, and low sulfur content fuel to potentially reduce air emissions.

This Print Covers Calendar Item No. **5A**

On June 11, 2003, the Port Commission adopted a resolution to establish the Cruise Terminal Environmental Advisory Committee (CTEAC). CTEAC is comprised of representatives from the cruise and maritime industries, regulatory agencies, organized labor, and neighborhood and environmental organizations. CTEAC meets on a regular basis, having met six times since September 2003 to review environmental impacts emanating from cruise ships.

On November 6, 2003, the Bay Conservation and Development Commission (BCDC) approved a resolution pursuant to the Major Permit for the cruise terminal project. Issuance of the permit is conditioned on a number of items, including the following item: by April 2005, the project sponsors (the Port and the developer) shall report to BCDC on the recommendations to reduce air emissions made by CTEAC and the Port Commission's determination as to the feasibility of implementing those recommendations. The recommendations should address "at a minimum, the feasibility of using lower emission fuels, cold-ironing (i.e., shoreside power hook-up), the prohibition of onboard incineration, and the identification, reservation, and incorporation of infrastructure within the project site for emerging technology."

At its April 2004 meeting, the CTEAC agreed to recommend to the Port Commission to issue a Request for Proposals to review the cost effectiveness of shore-based power versus other means to reduce cruise ship air emissions (e.g., emerging engine technologies, low sulfur content fuel, etc.). This study would be conducted by a third-party consultant, its findings reviewed by CTEAC, and a recommendation presented to the Port Commission. To achieve compliance with the BCDC permit requirements, Port staff in collaboration with CTEAC will present this study and its determination of shoreside power and other emission control to the Port Commission by late 2004, and BCDC for review no later than April 2005.

San Francisco Cruise Terminal LLC, the cruise terminal developer, provided $50,000 in March 2004 for third party advice and research relating to air and water quality issues as a condition to close escrow for the initial phase (i.e., the residential tower on a portion of SWL 330) of the Cruise Terminal and Mixed Use Project.

**Shoreside Power**

Juneau, Alaska currently has a berth with the only operational shoreside power system for cruise ships in the United States. The Juneau operation services five or six Princess Sun-class cruise ships. Shoreside power is not used by any other cruise lines. The Port of Seattle is currently investigating the feasibility of providing shoreside power for retrofitted Princess ships that call in Juneau.

The Port of Los Angeles is implementing potential shoreside power for commercial ocean-going vessels. China Shipping has agreed to install shoreside power capabilities only on its new vessels as long as the Port pays for the capital costs of engineering and construction. Shoreside electrification for China Shipping is not yet operational.

In April 2004, the Port of Long Beach completed a feasibility study of various types of available emissions control technologies able to reduce air emissions from ocean going vessels (e.g., containers, tankers, break bulk, dry bulk, cruise ships, etc.). The study concluded that shoreside power is "generally cost effective with those vessels that spend a lot of time at the port and therefore have high annual power consumption." In general, shoreside power would be cost-effective if the vessel's annual power consumption exceeded 1,500,000 kW-hrs. Among the individual ships recommended to use shoreside power, the study targeted the cost-effectiveness of shoreside power for the Carnival cruise ship, Ecstasy, which assumed 52 calls with an average berth time of 12 hours. By comparison, while the Port projects 86 total cruise calls in 2004, the Port of San Francisco will serve 11 different cruise lines, and 25 different cruise ships of numerous designs. The Celebrity Mercury makes 18 calls, the most of any individual cruise ship.

The Port of Long Beach study also evaluated the feasibility of alternatives to shoreside power for ocean-going vessels. Feasible alternative control mechanisms may include the use of MGO diesel, emulsified diesel, and specific engine modifications. However, each of these solutions currently has certain implementation constraints that may or may not be solved. The study concludes that "some of the feasible alternatives are more cost-effective than cold-ironing (i.e., shoreside power), although in some cases they have lower emission reductions or achieved single pollutant reduction, and many have unresolved technical obstacles."

**Scope of Work**

Drawing upon the Port of Long Beach study and existing resources, Port staff seeks to issue a Request for Proposals (RFP) and retain a qualified consultant to evaluate the feasibility of shoreside power in San Francisco. Rather than evaluate a wide range of ocean-going vessels, this proposed consultant would focus its work only on cruise ships and the new terminal at Piers 30-32. As discussed with and approved by the CTEAC, the consultant's scope of work would include:

1) Determination of the availability of sufficient power capacity within existing, and anticipated additions, to the grid;
2) Preparation of an inventory of the number of cruise ships that call at the Port including frequency of calls, types of propulsion and auxiliary engines, configuration of electrical systems, duration, number and types of engines used, and electrical load for ships using shoreside power;
3) Estimated emissions of diesel particulates, nitrogen oxides and sulfur oxides from cruise ships;
4) Estimation of total infrastructure costs to provide shoreside power, including a conceptual site plan for shoreside infrastructure which minimizes impact on current schematic design of the cruise facility/mixed use development; and ongoing operating costs, including the annual total cost of power and determination whether it is price competitive relative to the price of using cleaner fuels;

5) Identification of any safety and/or security issues associated with shoreside power;
6) Analysis of the feasibility and evaluation of the relative costs and benefits (i.e., lower air emissions) of shoreside power as compared to using cleaner fuels, potential engine exhaust controls, and potential engine modifications;
7) Preparation of a "base case" scenario using the existing fleet of cruise vessels that are currently equipped to use shore side power and a "best case" scenario assuming all cruise ships are required to use shoreside power over a period of time. Include other appropriate scenarios for the utilization of cleaner fuels and the implementation of fleet improvements.

Port staff believes it is necessary to evaluate these issues in a formal technical and financial feasibility study, in order to enable the Port Commission (and BCDC) to fully weigh public policy alternatives. If approved, the Request for Proposals would be issued in May; the final report would be expected to be completed by late 2004. Port staff estimates the cost of these services will not exceed $50,000.

**Recommendation**

Port staff recommends that the Port Commission authorize the Executive Director to issue a Request for Proposals from consultants to prepare a feasibility study as outlined above.

Prepared by: John Doll
Project Manager
Planning & Development Division

**PORT COMMISSION**

**CITY AND COUNTY OF SAN FRANCISCO**

**RESOLUTION NO. 04-40**

WHEREAS, On March 23, 2003, by Resolution No. 03-28, the San Francisco Port Commission approved transaction documents to allow the development of a new Mixed-use Cruise Terminal at Piers 30-32; and

WHEREAS, On March 23, 2003, by Resolution No. 03-27, the Port Commission adopted findings, including a statement of overriding considerations and a mitigation and monitoring program, pursuant to the California Environmental Quality Act (CEQA) and the State CEQA guidelines in connection with the Mixed-use Cruise Terminal Project; and,

WHEREAS, Those documents require cruise lines that will use the new cruise terminal to follow "Best Management" practices for air and water quality endorsed by leading environmental advocacy groups; and

WHEREAS, Those documents also require creation of local air and water quality advisory groups to oversee operating practices at the new cruise terminal facility; and

WHEREAS, On June 12, 2003, by Resolution No. 03-39, the Port Commission approved a San Francisco Cruise Terminal and Environmental Policy and Program which included creation of the Cruise Terminal Environmental Advisory Committee (CTEAC) which serves as an advisory group to the Port Commission; and,

WHEREAS, The CTEAC began meeting in September 2003 and continually meets on an on-going basis to review and recommend to the Port Commission additional feasible air and water quality measures; and,

WHEREAS, On January 22-23, 2004, the CTEAC convened a two day public workshop on cruise ship water and air impacts; and,

WHEREAS, The CTEAC has met six times to date and has discussed review feasible measures to address air quality impacts, including the potential use of technologies, such as shoreside power, and alternative fuels, such as low sulfur content fuel, and reduced ship speeds, if proven effective in reducing nitrogen oxide and $PM_{10}$ emissions; and,

WHEREAS, On November 6, 2003, BCDC approved a resolution that requires the Port to report, by April 2005, to BCDC on the CTEAC recommendations to reduce air emissions and on the Port Commission's determination as to the feasibility of implementing those recommendations; and

WHEREAS, It is appropriate that those recommendations will address the feasibility of using lower emission fuels, shoreside power, the prohibition of onboard incineration, and the identification, reservation, and incorporation of infrastructure within the project site for emerging technology; and

WHEREAS, Within 90 days after submission of the Port report regarding recommendations to reduce air emissions, BCDC will determine which, if any, of the recommendations are feasible, as that term is used in Section 15361 of the State CEQA Guidelines; and,

WHEREAS, If BCDC determines certain recommendations are feasible, the Port and the Cruise Terminal Developer/Operator shall implement such recommendations prior to cruise terminal operations; and,

WHEREAS, The Port and the Cruise Terminal Developer/Operator are required to report annually on the facility operations and its record of compliance with the emission control program that BCDC requires to be implemented; and

WHEREAS, It is appropriate and necessary to conduct a comprehensive feasibility study regarding alternative measures and technologies for the reduction of air emissions for the new cruise terminal and its operations to satisfy BCDC requirements; now be it

RESOLVED, The Executive Director is hereby authorized to issue a Request for Proposals from qualified consultants to conduct a feasibility study of shoreside power and alternative air emission technologies for cruise ships utilizing the James R. Herman Cruise Terminal.

***I hereby authorize that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of May 11, 2004.***

_____
Secretary

PORT OF SAN FRANCISCO

**MEMORANDUM**

May 5, 2004

TO: MEMBERS, PORT COMMISSION
Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Kimberly Brandon
Hon. Sue Bierman

FROM: Monique Moyer
Executive Director M. Moyer

SUBJECT: Request for a Supplemental Appropriation to authorize expenditure of $1,160,000 in Unappropriated Operating Reserve Funds to pay one-half of a court judgment in F. Alioto Company, Inc. v City and County of San Francisco Case No. 318360 associated with the Wharf J-10 Lease.

**DIRECTOR'S RECOMMENDATION**: AUTHORIZE THE EXECUTIVE DIRECTOR TO REQUEST A SUPPLEMENTAL APPROPRIATION TO AUTHORIZE EXPENDITURE OF $1,160,000 IN UNAPPROPRIATED OPERATING RESERVE FUNDS TO PAY ONE-HALF OF THE JUDGMENT AMOUNT IN THE F. ALIOTO COMPANY, INC. V. CCSF CASE INVOLVING LEASE OF PORT PROPERTY AT WHARF J-10.

**BACKGROUND**:

In August 2000, the Port issued a Notice to Vacate a leased building described as Wharf J-10 located at Fish Alley, between Leavenworth and Hyde Street in Fisherman's Wharf due to the deteriorated and dangerous condition of the substructure. One of the building's tenants, the F. Alioto Fish Company (the "Plaintiff") sued the Port alleging breach of contract on the part of the Port (Case No. 318-360.) The case proceeded to jury trial in December 2001. The Court awarded the Plaintiff a total of $3,018,833 in damages. On June 26, 2002, the trial court granted the Plaintiff's motion for attorney's fees in the amount of $299,580. The Port appealed the judgment and the award of attorney's fees. On January 9, 2004, the Court of Appeal affirmed the jury verdict.

This Print Covers Calendar Item No. **6A**

The total judgment consists of jury award, plaintiff's attorney fees award, and post-judgment interest as shown below:

| | Amount | Date of Award |
|---|---|---|
| Jury Award | $3,018,833 | 03/06/02 |
| Plaintiff's Attorney Fees Award | 299,580 | 06/26/02 |
| Post Judgment Interest (03/06/02 - 06/30/04): | | |
| Jury Award | 96,127 | |
| Attorney Fees Award | 8,244 | |
| Total Judgments as of 06/30/04 | $3,422,784 | |

The Port filed a motion to elect to pay a portion of the judgment in equal annual payments as authorized under Government Code section 984. At a hearing on April 21, 2004 the Court declined to grant the Port's request until such time that the Port has shown that it has complied with its obligation under Government Code 984 (d) to pay one-half of the total judgment immediately. The Court has construed the term "immediately" to mean as soon as reasonably practical, but in no event later than June 30, 2004. The Court also stated, and the parties have agreed, that if the Port pays one-half of the judgment, plus interest, in fiscal year 2004, it will be allowed to pay the remainder of the judgment in five equal annual installments, including interest accrued on the unpaid amount as of each annual payment date. Attached, for your reference, is the Order on Hearing Regarding Defendant's Election to Make Periodic Payments.

If the Port fails to pay one-half of the judgment, plus interest, in fiscal year 2004 the Port must appear in Superior Court on July 13, 2004 and show cause why its request to make periodic payments under Government Code Section 984 should not be denied for failure to comply with that obligation.

It is the staff's view that it is in the Port's best interest to fulfill its obligation of paying one-half of the judgment, including post-judgment interest, in the amount of $1,711,392. Staff is requesting a supplemental appropriation in order to pay this amount because that sum is not available from current appropriations in the Port's budget.

Port staff recommends that (1) a portion of the one-half of the judgment be funded with previously appropriated Judgment, Claims & Litigation funds, and (2) unappropriated operating reserve funds be used to fund the remaining balance. However, in order to use unappropriated operating funds the Port must request a supplemental appropriation through the Mayor and the Board of Supervisors as shown below:

| | Amount |
|---|---|
| One-half of Jury Award | $1,711,392 |
| Less amount funded by Judgement, Claims & Litigation funds | 551,392 |
| Funds drawn from the unappropriated operating reserve | $1,160,000 |

**RECOMMENDATION:**

Port staff recommends that the Port Commission direct the Port Executive Director to request a supplemental appropriation as outlined above.

Attachment.

Prepared by: Chudi Chuba, Finance Manager

**PORT COMMISSION**
**CITY & COUNTY OF SAN FRANCISCO**

**RESOLUTION NO. 04-41**

WHEREAS, The Superior Court of the State of California for the County of San Francisco has entered a judgment against the Port in the case of F. Alioto Fish Company v City and County of San Francisco, case No. 318-360; and

WHEREAS, Pursuant to the judgment, the court awarded a total of $3,018,833 in damages, and an attorney's fee in the amount of $299,580; and

WHEREAS, The Port filed an election with the Superior Court, under Government Code Section 984, to pay one half of the judgment immediately, and the remainder in annual installments; and the Court stated, and the parties have agreed, that if the Port pays one-half of the judgment, plus interest, in fiscal year 2004, it will be allowed to pay the remainder of the judgment in five equal annual installments, including interest accrued on the unpaid amount as of each annual payment date; and

WHEREAS, If the Port fails to pay one-half of the judgment, plus interest, in fiscal year 2004 the Port must appear in Superior Court on July 13, 2004 and show cause why its request to make periodic payments under Government Code Section 984 should not be denied for failure to comply with its obligations therein; and

WHEREAS, The Port wishes to fulfill its obligation to pay one-half of the judgment immediately, but requires approval of a supplemental appropriation for a portion of the payment; and

WHEREAS, The Port has $1,160,000 in Unappropriated reserve funds to pay a portion of the one-half of the judgment plus interest in fiscal year 2004; now, therefore, be it

RESOLVED, That the Port Commission authorizes the Executive Director to request approval of the Mayor and Board of Supervisors of a supplemental appropriation for $1,160,000 to pay the judgment in F. Alioto Company, Inc. v CCSF, and to take all steps reasonable necessary to pay the amount of $1,711,392 to F. Alioto, Inc. as soon as possible before the end of the 2004 fiscal year.

***I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of May 11, 2004.***

_____
Secretary

Angela Alioto [S.B.N. 130328]
Steven L. Robinson [S.B.N. 116146]
THE LAW OFFICES OF JOSEPH L. ALIOTO & ANGELA ALIOTO
700 Montgomery St.
San Francisco, Ca. 94111
Telephone (415) 434-8700
Facsimile: (415) 438-4638

*OF COUNSEL:*

Jody A. Meisel, SBN 109610
LAW OFFICES OF JODY A. MEISEL
2632 Larkin Street, Suite 0
San Francisco, California 94109
Telephone: (415) 563-2688
Facsimile: (415) 885-2790

Attorneys for Plaintiff
F. ALIOTO COMPANY, INC.
dba ALIOTO/LAZIO, et al

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF SAN FRANCISCO**

F. ALIOTO COMPANY, INC.

Plaintiff,

vs.

CITY AND COUNTY OF SAN FRANCISCO, et al

Defendants.

Case No. 318360

**[PROPOSED] ORDER ON HEARING REGARDING DEFENDANT'S ELECTION TO MAKE PERIODIC PAYMENTS**

Date: July 13, 2004
Time: 9:30 a.m.
Dept: 302
Judge: Quidachay

The hearing on the election by Defendant CITY AND COUNTY OF SAN FRANCISCO to make equal annual periodic payments of a portion of the Judgment and Order Awarding Attorney Fees came on regularly for hearing on April 21, 2004, Department 302 of this Court, the Honorable Ronald Evans Quidachay, presiding. Plaintiff

F. ALIOTO FISH CO. LTD. and Defendant CITY AND COUNTY OF SAN FRANCISCO appeared by their respective counsel.

The Court having fully considered the moving and opposing papers, the pleadings and papers on file with the Court concerning this action, the oral argument of counsel at the hearing and good cause appearing, makes the following orders:

1. The judgment, including the attorney's fees award but *not* post judgment interest, is $3,318,413. This amount, plus post judgment interest, is hereinafter referred to as "total judgment."

2. Defendant CITY AND COUNTY OF SAN FRANCISCO has elected under **Government Code § 984** to make installment payments of one half of the total judgment. The principal amount of one half of the total judgment is $ 1,659,206.50.

3. Although Defendant CITY AND COUNTY OF SAN FRANCISCO has requested permission to make the installment payments contemplated by **Government Code § 984** in ten equal payments, the Court finds this to be an excessive amount of time and further finds that under the current facts payment in five equal payments is appropriate.

4. This Court refuses to order that installment payments be made until such time as the Defendant shows that it has complied with its obligation under **Government Code § 984 (d)** to pay the Plaintiff one half of the judgment immediately.

5. Although Defendant CITY AND COUNTY OF SAN FRANCISCO has declined to provide a specific date by which it intends to pay one half of the total judgment, it did represent that it would use its "best efforts" to make such payment before the end of the current fiscal year (i.e., before June 30, 2004). Accordingly, this Court continues the hearing on the Defendant's election to make periodic payments under **Government Code § 984** until July 13, 2004, at 9:30 a.m. in Department 302 of the Superior Court of California, County of San Francisco, at which time the Defendant shall either present proof that it has indeed paid one half of the judgment, as is required by **Government Code § 984** or else



APR-28-2004 15:36 415 479 4579 TOTAL P.02

show cause why its request to make periodic payments under Government Code § 984 should not be denied for failure to comply with its obligations therein.

6. This Court shall, pursuant to Government Code § 984(c)(4), retain jurisdiction to enforce, amend, or modify any order permitting Defendant to make installment payments on the judgment herein or to approve any settlement of any dispute concerning such installment payments.

IT IS SO ORDERED

Date: _____

_____
Judge Ronald Evans Quidachay
Judge of the Superior Court

Approved as to Form and Content

Donald P. Margolis 4/28/04

By: Donald P. Margolis
Deputy City Attorney
Office of the City Attorney
Attorney for Defendant



APR-28-2004 15:36 415 438 463A

DOCUMENTS DEPT.

MAY 21 2004

SAN FRANCISCO
PUBLIC LIBRARY

# SAN FRANCISCO
# PORT COMMISSION

SF
P55
#3
5/11/04

## MAY 11, 2004
## MINUTES OF THE MEETING

**MEMBERS, PORT COMMISSION**

HON. WILFRED HSU, PRESIDENT
HON. MICHAEL HARDEMAN, VICE PRESIDENT
HON. KIMBERLY BRANDON
HON. SUE BIERMAN

**MONIQUE MOYER, EXECUTIVE DIRECTOR**

# CITY & COUNTY OF SAN FRANCISCO
# PORT COMMISSION

**MINUTES OF THE MEETING**
**MAY 11, 2004**

## 1. ROLL CALL

Commission President Wilfred Hsu called the meeting to order at 3:07 p.m. The following Commissioners were present: Wilfred Hsu, Michael Hardeman, Kimberly Brandon and Sue Bierman.

## 2. APPROVAL OF MINUTES - April 27, 2004 Meeting

ACTION: Commissioner Hardeman moved approval; Commissioner Brandon seconded the motion. All of the Commissioners were in favor; the minutes of the April 27, 2004 meeting were adopted.

## 3. EXECUTIVE

A. Executive Director's Report: Executive Director Monique Moyer reported the following:

- New Executive Director's Welcome Remarks: Ms. Moyer indicated that it's her goal not to be the shortest Port Director in history. For that, she hopes that everyone would be supportive in helping her to reach her goal. More importantly, it's pretty clear that she was not sent down to the Port because of some expertise that she has on the ports, maritime, real estate property, management and/or development. She was sent to the Port because of her background in finance. The Port is facing a very tough financial situation but the Port is not alone. The City is facing an even tougher financial situation. The news that will come out in the budget hearing for the City, all of the 62 departments including the Port, will not be favorable. If she had to draw on a graph on a timeline and the time to come to the Port, she would not have picked this time. However, she was happy to be at the Port but the road ahead will be very tough. She looks forward to working with everyone in the coming months and years.

- The KFOG Kaboom Concert and Fireworks Display on the Waterfront will be held on Saturday, May 22, from 4 – 9 p.m. The fireworks display will be commence at 9:15 p.m. She invited the Commission and the public to join her and staff at this event.

- Hidive Restaurant Grand Opening at Pier 28½ - the restaurant features a classic San Francisco fare with nightly jazz showcasing local performers. Most importantly, the restaurant is now up to code on the Americans with Disabilities Act (ADA) standards.

- Record Cruise Business for Port of San Francisco – Last week, the Port of San Francisco had its busiest week of cruise ship business ever, with the arrival of eight luxury liners in seven days. The Port's cruise business has more than doubled since 2002. This year, the

Port expects 86 calls and 210,000 passengers. She commended staff and the Commission for their efforts. The more the Port succeeds in this area, the more it will attract competition.

On behalf of the Commission, Commissioner Hsu welcomed Monique Moyer to the Port and looks forward to working with her. The Commission is very fortunate to have attracted Ms. Moyer to the Port. Her expertise in the financial world and her demonstrated leadership skills in previous positions will be much needed. He was confident that Ms. Moyer would do an excellent job for the Port.

**4. CONSENT**

A. Request for Consent to Use Portions of the Ferry Building Perimeter Easement and Access Easement for Temporary Farmer's Market Retail Kiosks and Carts pursuant to the Ferry Building Lease between the Port Commission and Ferry Building Investors, LLC. (Resolution No. 04-39)

ACTION: Commissioner Hardeman moved approval; Commissioner Brandon seconded the motion. All of the Commissioners were in favor; Resolution No. 04-39 was adopted.

**5. PLANNING & DEVELOPMENT**

A. Request for authorization to issue a Request for Proposals for a Feasibility Study of Shoreside Power and Alternative Air Emission Technologies for Cruise Ships Berthed at the James R. Herman International Cruise Terminal at Piers 30-32. (Resolution No. 04-40)

Mr. John Doll, Planning & Development Division, indicated that as part of the environmental review process for the cruise terminal project, one mitigation measure was to establish a Port Environmental Advisory Group to review air and water impacts from cruise ships and recommend any further feasible mitigation measures to the Port Commission. Last summer, the Port Commission established the Cruise Terminal Environmental Advisory Committee (CTEAC). After its first meeting in September, CTEAC met six times and continues to meet on a monthly basis. CTEAC also held a two-day workshop in January and the Port's Environmental Manager, Jay Ach, gave the Commission an overview of the workshop at its February 10th meeting. One issue that was identified in the Cruise Terminal Supplemental EIR was how to address cruise ship air emissions in light of changing technologies. Shoreside power, one potential mitigation measure, was specifically identified as meriting additional consideration in the BCDC permit for the new cruise terminal. Specifically, the cruise terminal permit is conditioned on the Port conducting a study to address the feasibility of shore-based power as well as addressing the feasibility of using lower emission fuels. Shoreside power is the ability for a cruise ship to plug into shoreside power as opposed to just using its own engines to produce electrification. Much attention was paid at the CTEAC conference to shoreside power, the use of alternative fuels and emerging engine technologies. The CTEAC has recently agreed to recommend funding a third party study to examine the feasibility of implementing shoreside power in San Francisco. This proposed feasibility study will analyze the relative cost effectiveness quantified as the cost per reduced ton of air emissions of shoreside power as compared to other or alternative technologies such as the

use of low sulfur fuel and the emerging new technologies. Drawing upon existing resources including a recently completed feasibility study performed by Environ on behalf of the Port of Long Beach, this proposed study would focus on:

(1) Determination of the availability of sufficient power capacity within existing and anticipated additions to the grid including the use of Hetch Hetchy power source;
(2) Estimation of existing versus anticipated cruise ship emissions;
(3) Preparation of an inventory of the number of cruise ships that call or could call at the Port and the determination of how many cruise ships could feasibly be retrofitted to allow for shoreside hook-ups;
(4) Estimation of the infrastructure costs and operating costs providing shore based power at the new cruise terminal;
(5) Evaluation of the cost and benefits of using shoreside power as compared to using cleaner low sulfur fuels and potential future engine modifications;
(6) Preparation of various scenarios to determine the feasibility of implementing shoreside power versus various alternatives to reduce air emissions.

This proposed study would examine whether shore based power would be the most feasible and effective way to reduce cruise ship emissions or whether other improvements in engine technologies and/or the use of low sulfur fuels would be a feasible cost effective alternative. Port staff estimates the cost of the services will not exceed $50,000. The source of funds was provided by the cruise terminal developer as a condition to close escrow under the first phase of the Bryant Street Pier Project. If approved, the RFP would be issued in May; the final report is expected to be completed by late 2004. The Port is looking for a consultant or consultant team with expertise in air quality analysis, marine and/or land based electrical systems and marine engineering. The consultant should also be knowledgeable in the operation of cruise ships. Port staff hopes to recommend a consultant to the Port Commission by late June or early July. With the Commission's approval the selected consultant will commence work immediately. It would take approximately three to four months to produce an initial draft of the study which will be brought to CTEAC and other regulatory authorities for their review. A final draft will be presented to the Commission for their review at the end of the year or beginning of next year. CTEAC will provide a recommendation to the Commission in early January. This will be compliant with the BCDC permit obligation which is required to be done by April 2005. Port staff believes that the issuance of the proposed RFP is necessary to obtain third party advice and evaluate feasible options to reduce air emissions from cruise ships and allow the Port Commission to eventually weigh different public policy alternatives in terms of which technology or methods would be most feasible in terms of reducing air emissions or which would be most feasible for the Port Commission to consider.

Commissioner Hardeman asked how many different systems would the Port have needed for the ships that called at the Port last week. He asked if the ships have the capability to hook up to one system or do they need two or three different hook-ups.

Mr. Doll replied that not only are they different brands of cruise lines but they are Sun-class ships within Princess Ships. The Sun-class Princess ships are currently the only ships able to use Juneau shore-based power. Other Princess ships are not currently retrofitted. One of the

consultant's task is to look at the 2004 ship calls to take an inventory of which ships are coming in, which ships are likely to come in and whether or not they would be suitable for retrofitting.

Peter Dailey, Maritime Director, indicated that San Francisco has unique operational issues with the cruise lines unlike the Port of Long Beach. There are 23 different ships calling at the Port of San Francisco, all with different operational considerations and constraints. There is no industry standard in terms of marine engines; it's one size fits all. It makes it very difficult to have one set of cold ironing for all the different types of vessels and cruise lines. There is cold ironing at the Port right now. The MARAD ships berthed on the waterfront are all hooked up to shoreside power. Cruise ships provide a completely different set of operating scenarios and it will be a challenge for the Port. The Port is trying to be at the forefront of this issue. In September, the Port is a co-sponsor of an air marine environmental workshop in Southern California with the Ports of Oakland, Long Beach, and Los Angeles. The workshop will focus on looking at new technologies and ways to minimize air pollution from marine vessels in California ports. This would be a good first step for our cruise terminal project as we incorporate environmental practices into our cargo operations.

Francisco Da Costa indicated that he has attended some of the CTEAC meetings and workshop. He commended Peter Dailey for taking a progressive step and bringing the community together to discuss the cruise ship. On the surface, when they talk about the cruise ship, everything looks nice. However, they need to look at the cumulative environmental impacts in this area not only from the particulate and NOx that are emitted from the cruise ships but also the traffic and other pollutants in the area. Regarding power, he suggested looking into solar power since the Port has real estate properties where solar power can be generated. The City has $100,000 million dollars in bond measure. The City and the Port can be partners in producing this energy so the cruise ships can get the cleanest energy from the cleanest source available.

As he has done in the past, Mr. DaCosta mentioned that he will be addressing the Commission from time to time not just for himself but mostly if he sees that the environmental pollution or the adverse effect affects the children and the seniors in their community. While the Port has a new director, there are remaining issues that need to be addressed. He hopes that they will be resolve in a progressive way.

ACTION: Commissioner Brandon moved approval; Commissioner Hardeman seconded the motion. All of the Commissioners were in favor; Resolution No. 04-40 was adopted.

## 6. ADMINISTRATIVE SERVICES

A. Request for approval of a Supplemental Appropriation to authorize expenditure of $1,160,000 in Unappropriated Operating Reserve Funds to pay one-half of a court judgment in F. Alioto Company, Inc. v City and County of San Francisco Case No. 318360 associated with the Wharf J-10 Lease. (Resolution No. 04-41)

General Counsel Noreen Ambrose reminded the Commission that the Superior Court awarded F.Alioto Company a total of $3,422,784 including attorney's fees and post

judgement interest. The item before the Commission relates to an election that the Port made under code provisions that entitles public agencies to pay half of a large judgement up front with the remaining half spread over installment payments. The Port filed a motion and the court granted the election with five-year installment payment authorized for half provided that the Port pays for the first half before the end of the fiscal year. If the Port fails to pay one-half of the judgement, plus interest, in FY 2004, staff must go back to court in July. Staff is requesting a supplemental appropriation because this sum is not available from current appropriations in the Port's budget. The Port must request a supplemental appropriation through the Mayor and the Board of Supervisors.

If the Port pays the $1.16 million, Commissioner Brandon asked if the money would be used towards rebuilding the Wharf J-10 structure. General Counsel Ambrose replied that the judgement award is for damages. The lease is still in effect and the representation that the tenant made to the Superior Court and the Court of Appeals was they intend to honor their lease and rebuild. The next step is for both parties to meet and complete the EIR and work out a replacement structure and payment plan. The issue that Commission Brandon raised would be a separate legal action or something that can be resolved amicably between the parties.

Commissioner Brandon asked if that has to be done before the end of the fiscal year. Ms. Ambrose replied that both parties need to reach agreement before the Port pays the money, whether or not that's possible depends upon both parties coming to terms.

Ms. Moyer noted that this would require a supplemental appropriation from the Board of Supervisors. With the Commission's approval, staff will commence work so it can go to the Board before the upset date of June 30th. Commissioner Brandon asked if the Port is only appropriating the money at this point or is it actually getting ready to pay. Ms. Moyer replied that it's a combination of both – the Port has an obligation to pay it before July 1st but it does not have the authority without the Board of Supervisors' approval. She also noted that, with the exception of the half million dollars itemized in the staff report, staff will be relying on its reserves to make the payment.

ACTION: Commissioner Hardeman moved approval; Commissioner Bierman seconded the motion. All of the Commissioners were in favor; Resolution No. 04-41 was adopted.

## 7. NEW BUSINESS/PUBLIC COMMENT

Commissioner Hardeman commented that Port staff did a very commendable job at the Board of Supervisors' hearing regarding the audit. Ms. Moyer was also in the audience during the hearing. Port staff captured the attention of some of the Board members and they showed a little more respect to staff. He was very proud of staff and thanked them for a job well done.

Francisco Da Costa stated that the Port Commission has jurisdiction over the 7.5 mile waterfront. From the Ferry Building to the north, there's a lot of development but there's a lot to be done on the southern part. He suggested that the community and the Port work together to develop the land in the southern part of the waterfront for the public's benefit. Pier 70 and the neighboring piers are not developed and there's a lot of pollution. He reminded the Commission that the Port

made some mistakes at Pier 98 and the toxic soil at Pier 92. He was happy to report that the living classroom at Pier 98 will not be built as it is wrong to take children near a power plant, which is a toxic dump. He mentioned about the large amount of money that was awarded to the Alioto's, which could have been avoided if the Port had initially mitigated it. Sometimes mistakes have to be made so one can learn from them.

Tim Kelley, retired maritime worker and current President of the SF Landmarks Board, expressed his concern that the Port sold the piledriving rigs 2 and 3 which had been determined in a survey commissioned by the Port to be eligible for the National Register and as such had been considered historic resources. They were sold with the knowledge that they would be dismantled which he believed had already been done. He expressed the concern of the preservation community in general that those were very important resources particularly to the labor history of the Port of San Francisco. This is an area that many of them have fought to include in the considerations of the Port. As a retired Port worker, he does not foresee the return of longshoreman with big hooks. As the Port perceives what it needs to do with the development of the real estate assets, the sense of trust and cooperation with the preservation community is very important. He sadly reports that that sense of trust has been dealt a blow with the treatment of the piledriver rigs. He asked the Commission to calendar in public session what happened with the rigs and how similar incidents can be prevented in the future.

Commissioner Bierman asked staff for a report regarding the issue that Mr. Kelley brought up. Ms. Moyer replied that the item would be included on the agenda.

Ernestine Weiss welcomed Monique Moyer to the Port. Her financial expertise is sorely needed at the Port and the City. Ms. Weiss reported that she finally got the bars placed on the benches at Pier 7, thanks to Alex Lee and Joel Robinson. However, it should not have taken seven years to get it done. Since the skateboard craze started, she informed the Commission to get the nuisance mitigated. Ms. Weiss mentioned that she is working with other people regarding the renovation of ferry park. They have a $200,000 study in progress. This is going to be a very beautiful part of the City, which will enhance the value of Port real estate.

Commissioner Brandon requested the Executive Director to hold a public hearing on the Illinois Street Bridge project to ensure that Port has the proper accounting and have the appropriate resources to build a good bridge.

Ms. Moyer replied that the Illinois Street Bridge public hearing would be calendared as soon as possible since it is a project that would require expenditure authority from the Board of Supervisors.

Commissioner Hsu announced that the Commission would take a short break while waiting for the students from the Architectural Foundation of San Francisco/Build San Francisco program to arrive to make their presentation.

## 8. EXECUTIVE SESSION

A. Vote on whether to hold closed session to confer with Legal Counsel and Real Property Negotiator.

ACTION: Commissioner Hardeman moved approval; Commissioner Brandon seconded the motion. All of the Commissioners were in favor.

Since the students have not arrived yet, at 4:00 p.m., the Commission withdrew to executive session to discuss the following:

B. CLOSED SESSION

(1) PUBLIC EMPLOYEE APPOINTMENT/DISMISSAL/RESIGNATION – This is specifically authorized under California Government Code Section 54957.

- Consideration and Possible Action on Public Employee's Appointment/ Dismissal/Resignation – Deputy Director of Port (No. of Employees Affected 5).

(2) CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING LITIGATION MATTER (Discussion and/or Action Item)

a. Discuss existing litigation matter pursuant to Section (a) of California Government Code Section 54956.9 and San Francisco Administrative Code Section 67.10(d) (1 case):

- Patricia Ann Tanzer v. Pier 39, City and County of San Francisco, et al. San Francisco Superior Court Case No. 324020, filed October 25, 2001. (Discussion and/or Action Item)

  Discussion of plaintiff's offer to compromise pursuant Code of Civil Procedure 998, for the sum of $90,000.

(3) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – This is specifically authorized under California Government Code Section 54956.8.
***This session is closed to any non-City/Port representative. ****

a. Property: Francisco Bay Office Park (Seawall Lots 315, 316 and 317)
Person Negotiating: Port: Byron Rhett, Director of Planning & Development
*Exploratorium: Dr. Goéry Delacôte

b. Property: Piers 27-31
Person Negotiating: Port: Byron Rhett, Director of Planning & Development
*Piers 27-31 LLC: Steve Jacobsen

c. Property: Pier 43
Person Negotiating: Port: Ken Winters, Director of Real Estate
*Franciscan Restaurant: Kevin Westlye
**This item was taken off the calendar.**

d. Property: Seawall Lot 349

Person Negotiating: Port: Ken Winters, Director of Real Estate
*Delancey Street: Mimi Silbert

Commissioner Brandon recused herself in the discussion of the Delancey Street matter.

e. Property: Pier 92
Person Negotiating: Port: Ken Winters, Director of Real Estate
*Specialty Crushing: Tom Chasm
**This item was taken off the calendar.**

**9. RECONVENE IN OPEN SESSION**

At 4:40 p.m. the Commission reconvened in open session to listen to the students of the Architectural Foundation of San Francisco/Build San Francisco Program.

ACTION: Commissioner Hardeman moved approval to adjourn the executive session and reconvene in open session; Commissioner Brandon seconded the motion. All of the Commissioners were in favor.

ACTION: Commissioner Hardeman moved approval for the Commission to accept the resignation of Joel Robinson as Deputy Director of Administrative Services. Commissioner Brandon seconded the motion. All of the Commissioners were in favor.

ACTION: Commissioner Hardeman moved approval for the Commission to approve the Port Director's appointment of Tina Olson as Deputy Director of Administrative Services. Commissioner Brandon seconded the motion. All of the Commissioners were in favor.

ACTION: Commissioner Hardeman moved approval to not disclose any other information discussed in executive session; Commissioner Brandon seconded the motion.

**PUBLIC COMMENT**

Alan Sandler, Executive Director of the Architectural Foundation, reported that they have been working with the Port of San Francisco and the San Francisco Unified School District on the Build San Francisco project, the afternoon internship program for Juniors and Senior Students of San Francisco. This semester, 16 high school students from nine of the City's high schools participated and worked really hard on the program. He thanked the Commission for the use of the conference room at Pier 1.

Nadia Kotova, a senior at San Francisco School of the Arts, indicated that the program allows high school juniors and seniors to learn more about the development of the City through mentoring with design and construction firms.

David Chen, a senior at Lowell High School, indicated that every student was assigned a mentor in the program. His mentor was Jeanie Moss, at Hannum & Associates. Throughout his internship, it gave him a chance to see what architecture was like in the real world. Without this

program he would not have the opportunity to learn about architecture.

On behalf of all the students, Melissa Rica, a junior at George Washington High School, thanked the San Francisco Unified School District, the Architectural Foundation of San Francisco, the Port of San Francisco, and all the firms whose employees donated their time. Without them, this opportunity would not have been possible.

Alan Sandler indicated that the students spent their time at the following firms:

- C&B Consulting engineers
- Farrell, Braun & Martel
- Glumac International
- Guttmann & Blaevoet
- Hannum & Associates
- Homecoli
- Port of San Francisco offices
- Simpson Gumpertz & Heger, Inc.
- Swinerton Builders
- Tom Elliott & Fisch
- Treadwell & Rollo

They have been working with the Port and SFUSD on this program for a couple of years. About four months ago, the SFUSD asked what it would take to become a full time academic program during the school year. They are currently in full-scale negotiation with the school system about opening up. They are going to build the San Francisco Institute in the fall of 2004 involving students from every high school in the City, every afternoon, five days a week. It's an exciting challenge. He thanked everyone for providing the opportunity and showing the faith of what the public sector working with the public sector and working with the private sector can do for the students of San Francisco and future members of this panel.

Commissioner Hsu asked how a firm can participate in the program. Mr. Sandler replied that the firms volunteer in the program. They have documented over $250,000 professional time donated to the program.

Commissioner Hsu asked if they advertise and how does one find them. Mr. Sandler replied that the students find them through the school system. Otherwise, they can be found through the Architectural Foundation of San Francisco.

Mr. Richard Hannum, indicated that they have been reticent about making it public because they have been in partnership with the school for a number of years. Now that they have been asked to open a school, it will become more public and the public can get a better understanding of the program.

Commissioner Hardeman asked if any of the students is from John O'Connell high School. The school is strong in engineering. Mr. Hannum replied that one student is from John O'Connell but was not able to attend today's meeting because he's taking a test and he happens to be interested in engineering.

Commissioner Brandon commented that it's a wonderful program and wished them continued success.

Mr. Sandler indicated that the students would be making their final presentation to their mentors at Pier 1 this afternoon. He invited the Commission and the public to attend. The students chose the topic of "Do we tear down, and under what circumstances, the Vaillancourt Fountain."

Commissioner Hsu wished them continued success. He commended the Architectural Foundation for doing a great job and all the mentors for volunteering.

At 5 p.m. the Commission withdrew to executive session to continue their executive session discussion.

ACTION: Commissioner Brandon moved approval to adjourn open session and reconvene in executive session; Commissioner Hardeman seconded the motion. All of the Commissioners were in favor.

## 10. ADJOURNMENT

At 6:13 p.m., the Commission withdrew from executive session and reconvened in open session.

ACTION: Commissioner Hardeman moved approval to adjourn executive session and reconvene in open session; Commissioner Brandon seconded the motion. All of the Commissioners were in favor.

ACTION: Commissioner Hardeman moved approval to not disclose any information discussed in executive session; Commissioner Brandon seconded the motion. All of the Commissioners were in favor.

ACTION: Commissioner Hardeman moved approval to adjourn the meeting; Commissioner Brandon seconded the motion. All of the Commissioners were in favor.

Commissioner Hsu adjourned the meeting at 6:15 p.m.

DOCUMENTS DEPT.

MAY 2 1 2004

SAN FRANCISCO
PUBLIC LIBRARY

# SAN FRANCISCO PORT COMMISSION

SF
PORT
M
5/25/04
c. 2

**Wilfred Hsu, President**
**Michael Hardeman, Vice President**
**Kimberly Brandon, Commissioner**
**Sue Bierman, Commissioner**

**Monique Moyer, Executive Director**
**Phone: 415-274-0400; Fax: 415-274-0412**

**Amy Quesada, Commission Secretary**
**Phone: 415-274-0406; Fax: 415-274-0412**

## AGENDA

**REGULAR MEETING**
**3:00 P.M., TUESDAY, MAY 25, 2004**
**PORT COMMISSION HEARING ROOM, 2ND FLOOR**
**FERRY BUILDING, SAN FRANCISCO, CA 94111**

***The Port Commission Agenda as well as Staff Reports/Explanatory Documents available to the public and provided to the Commission are posted on the Port's Website at www.sfport.com.***

**1. ROLL CALL**

**2. APPROVAL OF MINUTES** - May 11, 2004 Meeting

**3. ENGINEERING & MAINTENANCE**

A. Request to authorize Executive Director to appoint a committee to conduct building permit appeal hearings. (Resolution No. 04-42)

**4. REAL ESTATE**

A. Request for approval of CEQA Findings and five-year Lease with Sims Group USA Inc. for Space at Seawall Lot 349, Pier 70, at the foot of 20th Street, for Use as Metal Recycling and Transfer Center. (Resolution No. 04-43)

NOTE: The environmental impacts of the proposed lease were addressed in the Waterfront Land Use Plan Program Final Environmental Impact Report (FEIR), certified on January 9, 1997, and the Southern Waterfront Program Supplemental EIR, certified on February 15, 2001, pursuant to the California Environmental Quality Act (CEQA).

**5. EXECUTIVE**

A. Executive Director's Report
- Regional Water Quality Control Board's approval of the Port's Storm Water Management Plan

- Ocean Disposal of Pier 35 Dredge Material Reduces Costs
- KFOG Kaboom Concert and Fireworks Display on the Waterfront

B. Request for approval of resolution establishing salary for Port Executive Director for Fiscal Year 2004/2005 pursuant to Charter Section B 3.581(h). (Resolution No. 04-44)

C. Request for approval of the Revised FY 2004/05 Port Operating Budget. (Resolution No. 04-45)

## 6. ADMINISTRATIVE SERVICES

A. Request for approval of a Supplemental Appropriation request to authorize expenditure of $9,998,139 to provide the additional funding necessary to issue a notice to proceed to Shimmick Construction for Phase II and Alternates 3, 4 and 5 of Contract No. 2680 for design-build services for the new Illinois Street Bridge to provide for rail/vehicular/ pedestrian crossing of Islais Creek. (Resolution No. 04-46)

NOTE: The environmental impacts of the proposed lease were addressed in the Waterfront Land Use Plan Program Final Environmental Impact Report (FEIR), certified on January 9, 1997, and the Southern Waterfront Program Supplemental EIR, certified on February 15, 2001, pursuant to the California Environmental Quality Act (CEQA).

## 7. NEW BUSINESS / AGENDA SETTING

- New Business

- Agenda Setting

(1) Commissioner Bierman's Request – Report on Piledrivers #2 and #3
(2) Commissioner Bierman's Request – Report on Pier 94 Wetland Enhancement Project
(3) Extension of Pier 27-31 Exclusive Right to Negotiate
(4) Other

## 8. PUBLIC COMMENT

Public comment is permitted on any matter within Port jurisdiction and is not limited to agenda items. Public comment on non-agenda items may be raised during the Public Comment period. A member of the public has up to three minutes to make pertinent public comments before action is taken on any agenda item and during the public comment period. It is strongly recommended that public comments be submitted in writing so they can be distributed to the Commissioners for their review. Please fill out a speaker card and hand it to the Commission Secretary. If you have any question regarding the agenda, please contact the Commission Secretary at 274-0406.

## 9. EXECUTIVE SESSION

A. Vote on whether to hold closed session to confer with Legal Counsel and Real Property Negotiator.

B. CLOSED SESSION

(1) PUBLIC EMPLOYEE APPOINTMENT/DISMISSAL/RESIGNATION – This is specifically authorized under California Government Code Section 54957.

- Consideration and Possible Action on Public Employee's Appointment/ Dismissal/Resignation – Deputy Director of Port (No. of Employees Affected 4).

(2) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – This is specifically authorized under California Government Code Section 54956.8.
***This session is closed to any non-City/Port representative. ****

a. Property: Francisco Bay Office Park (Seawall Lots 315, 316 and 317) at Embarcadero and Francisco Street
Person Negotiating: Port: Byron Rhett, Director of Planning & Development
*Exploratorium: Dr. Goéry Delacôte

Under Negotiation: _____ Price _____ Terms of Payment __X__ Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at SWL 315, 316 & 317.

b. Property: Piers 27-31 on Embarcadero at Battery and Sansome Streets
Person Negotiating: Port: Byron Rhett, Director of Planning & Development
*Piers 27-31 LLC: Steve Jacobsen

Under Negotiation: _____ Price _____ Terms of Payment __X__ Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at Piers 27-31.

c. Property: The Embarcadero Hotel, at Embarcadero and Broadway
Person Negotiating: Port: Byron Rhett, Director of Planning & Development
*Stanford Hospitality, Inc: Antony Carter

Under Negotiation: _____ Price _____ Terms of Payment __X__ Both
An executive session has been calendared to give direction to staff regarding real estate negotiations regarding the Embarcadero Hotel.

**10. RECONVENE IN OPEN SESSION**

A. Possible report on actions taken in closed session pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.

B. Vote in open session on whether to disclose any or all executive session discussions pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.

**11. ADJOURNMENT**

## MAY/JUNE 2004
## CALENDAR OF UPCOMING PORT MEETINGS - OPEN TO THE PUBLIC

| Date | Time | Group | Location |
|---|---|---|---|
| **May 25** | **3:00 p.m.** | **Port Commission** | **Port Commission Room @ Ferry Building** |
| **June 8** | **3:00 p.m.** | **Port Commission** | **Port Commission Room @ Ferry Building** |
| **June 22** | **3:00 p.m.** | **Port Commission** | **Port Commission Room @ Ferry Building** |

**NOTES:**

The San Francisco Port Commission meets regularly on the 2nd and 4th Tuesday of the month at 3:00 p.m., unless otherwise noticed. ***The Commission Agenda and staff reports are posted on the Port's Website @ www.sfport.com.*** Contact Amy Quesada at 274-0406.

The Brannan Street Wharf Citizens Advisory Committee meets on an as-needed basis to develop a concept plan for this planned open space in the South Beach area. Meetings are held in the Bayside Conference Room at Pier 1. Contact Dan Hodapp @ 274-0625 or dan_hodapp@sfport.com

The Cruise Terminal Environmental Advisory Committee generally meets the third week of each month. Date and time to be determined. Contact Michael Nerney at 274-0416.

The Environmental Quality Advisory Committee (EQAC) meets regularly on the fourth Thursday of the month at 9:00 a.m. at Scoma's Restaurant, Pier 47 @ Fisherman's Wharf. Contact Jay Ach @ 274-0562.

The Fisherman's Wharf Waterfront Advisory Group meets regularly on the 3rd Tuesday of the month. The regular meeting time and place is 9:00 a.m. at Scoma's Restaurant, Pier 47 at Fisherman's Wharf. Contact Kirk Bennett @ 274-0545.

The Maritime Commerce Advisory Committee (MCAC) meets on a bi-monthly basis, on the third Thursday of the month, from 11:30 a.m. to 1:30 p.m. @ Pier 1. Contact Jill Rodby @ 274-0519.

The Mission Bay CAC meets regularly on the 2nd Thursday of the month, from 5:30 to 7:30 p.m. at the Mission Bay Visitor Center (255 Channel Street). Contact Tiffany Bohee at 749-2481 for more information.

The Northeast Waterfront Advisory Group meets regularly on the 1st Wednesday of the month at 4:00 p.m. in the Bayside Conference Room @ Pier 1. Contact Kirk Bennett @ 274-0545.

The Pier 70 Advisory Group meets monthly on an as-needed basis generally on the 2nd Wednesday of the month from 4 to 6 p.m. at the Potrero Campus of the California College of Arts and Crafts, Board Room, 1111 – 8th Street between Irvin and Hooper. Contact Mark Paez @ 705-8674.

The Rincon Point-South Beach CAC meets regularly on the 3rd Monday of the month, from 5:00-7:00 p.m. at the South Beach Yacht Club (Pier 40 on The Embarcadero). Contact Tiffany Bohee at 749-2481 or 749-2400 for more information.

The Southern Waterfront Advisory Committee (SWAC) meets every 1st Wednesday of the month from 6:15 to 8:15 p.m. Location to be determined. Contact David Beaupre @ 274-0539 or david_beaupre@sfport.com.

The Waterfront Design Advisory Committee meets the 3rd Tuesday of the month from 11 a.m. to 1 p.m. in the Bayside Conference Room @ Pier 1. Contact Dan Hodapp @ 274-0625.

## ACCESSIBLE MEETING INFORMATION

**Ferry Building:** The Port Commission Hearing Room is located on the second floor of the Ferry Building. The main public entrance is from the west (Embarcadero) side and is served by a bank of elevators adjacent to the historic staircase. Accessible public restrooms are on the first floor at the northeast end of the building as well as on the second floor across the lobby from the Port Commission Hearing Room. The main path of travel to the Port Commission Hearing Room is equipped with remote infrared signage (Talking Signs). The Port Commission Hearing Room is wheelchair accessible. Accessible seating for persons with disabilities (including those using wheelchairs) is available. The closest accessible BART and MUNI Metro station is Embarcadero located at Market & Spear Streets. Accessible MUNI lines serving the Ferry Building area are the F-Line, 9, 31, 32 and 71. For more information about MUNI accessible services, call (415) 923-6142.

The nearest accessible parking is provided in the following off-street pay lots:

A) 3 spaces in the surface lot on the west side of the Embarcadero at Washington St.
B) 3 spaces in the Pier 1/2 lot, located on the east side of the Embarcadero between the Ferry Building and Pier 1. During business hours this lot is operated by valets
C) Hourly and valet parking in the Pier 3 lot. This lot is accessed through the Pier 3 bulkhead building entrance on the east side of the Embarcadero. This lot is located on the pier deck; adjacent to the ferry boat Santa Rosa.

Additional covered accessible off-street pay parking is available in the Golden Gateway Garage, which is bounded by Washington, Clay, Drumm and Battery Streets. Entrance is on Clay St. between Battery and Front Streets. There is no high-top van parking. Metered street parking is available on the Embarcadero, Washington St., Folsom St. and Drumm St.

**Pier 1:**
The Port's fully accessible offices are in the west end of Pier 1. There are two public entrances; the main entrance on the west (Embarcadero), and the Port History walk entrance on the south apron. Each of these entrances is provided with an automatically operated door. Both entrances lead to the Bayside conference rooms. Accessible public restrooms, drinking fountains, payphone and TTY are on the first floor near the main entrance. The public spaces of the Port's offices are equipped with remote infrared signage (Talking Signs) identifying all primary entrances, paths of travel, meeting rooms and amenities. Accessible seating areas and assistive listening devices will be available in the Bayside Conference rooms.

**Accessible meeting information policy:**
In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals. A sign language interpreter and alternative format copies of meeting agendas and other materials can be provided upon request made at least 72 hours in advance of any scheduled meeting. Contact John Scott, Port's ADA Coordinator, at 274-0571. The Port's TTY number is (415) 274-0587.

**Know Your Rights Under the Sunshine Ordinance**. Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact Donna Hall by mail: Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102, by phone at (415) 554-7724, by fax at (415) 554-7854 or by email at Donna.Hall@sfgov.org. Citizens may obtain a free copy of the Sunshine Ordinance by contacting Ms. Hall or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, at http://www.sfgov.org/sunshine.htm

**Lobbyist Registration and Reporting Requirements.** Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Government Conduct Code §2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness, Suite 3900, San Francisco, CA 94102, phone (415) 581-2300 or fax (415) 581-2317; web site: www.sfgov.org/ethics.

PORT OF SAN FRANCISCO

**MEMORANDUM**

May 19, 2004

**TO:** MEMBERS, PORT COMMISSION
Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Kimberly Brandon
Hon. Sue Bierman

**FROM:** Monique Moyer
Executive Director

**SUBJECT:** Authorization to Appoint a Committee to Conduct Appeal Hearings Regarding Building Permits, on an Interim Basis

**DIRECTOR'S RECOMMENDATION:** AUTHORIZE EXECUTIVE DIRECTOR TO APPOINT A COMMITTEE TO CONDUCT APPEAL HEARINGS REGARDING BUILDING PERMITS PENDING ADOPTION OF THE PORT BUILDING CODE

## Introduction

Pursuant to the Burton Act and the City Charter, the Port Commission has exclusive authority to maintain, manage, regulate, improve and control the harbor of San Francisco, consistent with state law and the City Charter, including, the regulation of matters related to construction, reconstruction, and repair of buildings, facilities, and structures within Port jurisdiction. (Burton Act, Stats. 1968, ch. 1333, Section 3; City and County of San Francisco Charter, Appendix B, Section B3.581.)

By prior Resolution No. 80-112, entitled "Operating Grants of Authority," the Port Commission has delegated to Port staff the authority to issue and grant final approval for building permits. Specifically, the Commission has authorized the Port Executive Director, Chief Harbor Engineer, and Senior Civil Engineer to grant final approval of building permits for improvements within the Port's jurisdiction. (Resolution No. 80-112, dated September 10, 1980.)

## Current Development of Port Building Code

In the review and approval of building permit applications, the Port's engineering staff applies the substantive provisions of the San Francisco Building Code. However, as previously reported to the Commission, the Port's engineering staff is currently developing a Port Building Code with substantive provisions based primarily upon the San Francisco Building Code. As envisioned and currently drafted, the Port Building Code will contain procedures for interested parties to appeal staff decisions concerning building permits. These appeals will be heard by the Port Building Code Review Board (PBCRB), a body consisting of technical and non-technical members with expertise and/or interest in construction issues.

This Print Covers Calendar Item No. **3A**

**Interim Hearing Committee**

Pending the completion and adoption of the Port Building Code, the building permit decisions of Port staff are subject to review by the Port Commission, which has jurisdiction over matters relating to construction and improvements to Port property. The ability of the Port to conduct such hearings on a timely basis serves to facilitate Port business and improvements to Port properties. However, Commission authorization is required to enable Port staff to conduct such appeal hearings on behalf of the Commission on an interim basis (until adoption of the Port Building Code).

**Conclusion**

Therefore, staff seeks Commission authorization for the Executive Director to appoint a committee to conduct appeal hearings, concerning the Port's building permit decisions, which committee shall consist of a minimum of three persons designated by the Executive Director, including at least one non-Port member. This committee shall serve by appointment of the Executive Director, on an as-needed basis, until the completion and adoption of the Port Building Code.

Prepared by: Alex Lee, Director
Engineering and Maintenance

**PORT COMMISSION**
**CITY AND COUNTY OF SAN FRANCISCO**

**RESOLUTION NO. 04-42**

WHEREAS, the Port Commission has exclusive authority to maintain, manage, regulate, improve and control the harbor of San Francisco, consistent with state law and the City Charter, including, the regulation of matters related to construction, reconstruction, and repair of buildings, facilities, and structures within Port jurisdiction. (Burton Act, Stats. 1968, ch. 1333, Section 3; City and County of San Francisco Charter, Appendix B, Section B3.581); and

WHEREAS, by Resolution No. 80-112, entitled "Operating Grants of Authority," the Port Commission previously delegated to Port staff the authority to issue and grant final approval for building permits for properties within the Port's jurisdiction (Resolution No. 80-112, dated September 10, 1980.); and

WHEREAS, the Port's engineering staff is currently developing a Port Building Code with procedures governing the appeal of staff decisions concerning building permits; and

WHEREAS, pending the adoption of the Port Building Code, the building permit decisions of Port staff are subject to review by the Port Commission; and

WHEREAS, the ability of the Port to conduct timely appeal hearings concerning building permits serves to facilitate Port business operations and improvements to Port properties; and

WHEREAS, Commission authorization is required for Port staff to conduct such appeal hearings on behalf of the Commission; now, therefore, be it

RESOLVED, that the Port Commission hereby authorizes the Executive Director to appoint a committee to conduct appeal hearings concerning the Port's building permit decisions, consisting of a minimum of three committee members designated by the Executive Director including at least one non-Port member; and be it further

RESOLVED, that such building permit appeal committee shall serve by appointment of the Executive Director, on an as-needed basis, until the Commission's adoption of the Port Building Code.

***I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of May 25, 2004.***

_____
Secretary

PORT OF SAN FRANCISCO

**MEMORANDUM**

**May 18, 2004**

**TO:** MEMBERS, PORT COMMISSION
Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Kimberly Brandon
Hon. Sue Bierman

**FROM:** Monique Moyer
Executive Director M. Moyer

**SUBJECT:** Approval of CEQA Findings and five-year Lease with Sims Group USA Inc. for Space at Seawall Lot 349, Pier 70, at the Foot of 20th Street, for Use as Metal Recycling and Transfer Center

**DIRECTOR'S RECOMMENDATION:** APPROVE CEQA FINDINGS AND FIVE-YEAR LEASE WITH SIMS METAL USA, INC. FOR SPACE AT SEAWALL LOT 349 FOR USE AS A METAL RECYCLING AND TRANSFER CENTER

---

**BACKGROUND**

Sims Group USA, Inc. ("Sims") is a worldwide metal recycling operator with operations in Australia, New Zealand, Canada and the United States, and Great Britain as well as trading offices in South Korea, India, and Turkey. Sims is proposing to establish a metal recycling collection and transfer center at SWL 349, Pier 70, at the foot of 20th Street, under a five-year lease with the Port of San Francisco, to receive recyclable materials (primarily metals) for transfer to other Sims locations for final sorting and preparation.

Since preparation at SWL 349 would be minimal, material would be moved from the premises within 12-72 hours. Long term storage and stockpiling of materials would not be carried out at this site nor would any significant processing of materials. Inbound materials will be accepted from commercial, private and government sources only at SWL 349 and transported to Sims' processing facilities in Richmond and Redwood City. Sims material receiving protocol includes deliveries by motorized vehicle only with a valid driver's license. Only material with value is accepted, payment to the deliverer of materials is made only by check.

THIS PRINT COVERS CALENDAR ITEM NO. **4A**

**PROPOSED LEASE**

The following is an outline of basic terms and conditions to be included in the Lease with Sims for the premises located at Seawall Lot 349.

1. **Premises:** Approximately 46,495 sq. ft. of open land located at Seawall Lot 349, Pier 70, Foot of 20th Street.

2. **Use:** Metal recycling and transfer center, general administrative office trailer directly related thereto; parking of vehicles directly related to such permitted uses. Tenant shall conduct the foregoing permitted uses in accordance with the Addendum to Supplemental Environmental Impact Report (SEIR) issued by the San Francisco Planning Department, office of Environmental Review, dated May 3, 2004, a copy of which is attached hereto as Exhibit A.

3. **Term:** Five (5) years.

4. **Rent:** Base Rent: Rental Rate of $.17 per sq. ft. per month for open land, with annual cost of living increases.

   Total Base Rent:$7,904.00 per month. $94,848.00 annually.

5. **Improvements:** Tenant accepts the premises in its "as is" condition. All work to the Premises shall be conducted by Tenant at its sole cost and expense. All improvements shall be subject to the approval of the Port and shall require a building permit from the Port. Tenant shall be responsible for any required infrastructure modifications or improvements including roads, water, sanitary and storm sewers.

6. **Environmental:** Sims will be required to comply with applicable mitigation measures identified in the Southern Waterfront Supplemental Environmental Improvement Report (SEIR). The mitigation measures shall become required conditions of the Lease.

7. **Storm Water Pollution Prevention**: Sims will implement a construction storm water pollution prevention plan during the construction period. Storm water from the site currently drains to the City's combined sewer system, which will continue upon the opening of Sims operations. However, to delay the conveyance of storm water to avoid peak storm water loads on the combined system during period of high rainfall, Sims will construct an on-site stormwater retention system, consistent with requirements of the Statewide Municipal Stromwater Permit.

8. **Pier Advisory Committee**: A description of the proposed lease was circulated to members of the Pier 70 Advisory Committee. The Sims proposal was reviewed and discussed on May 12, 2004 and received support from the Advisory Committee.

9. **CEQA FINDINGS**: Pursuant to the requirements of the California Environmental Quality Act, (CEQA) and Guidelines for Implementation of CEQA (CEQA Guidelines), and Chapter 31 of the San Francisco Administrative Code, the Port Commission must review and consider the information contained in the Southern Waterfront Supplemental Environmental Impact Report (SEIR), certified on February 15, 2001, and SEIR Addendum, dated May 3, 2004, and adopt findings prior to approving the Sims lease. The CEQA findings are included in this staff report as Exhibit A, accompanied by Exhibit 1 containing the text of mitigation measures to be required as conditions of the Sims lease and Exhibit 2, containing a mitigation monitoring and reporting program.

## RECOMMENDATION

Port staff recommends approval of CEQA Findings and five-year Lease with Sims Group USA Inc. for space at Seawall Lot 349, Pier 70, at the Foot of 20th Street, for use as a metal recycling collection and transfer center.

Prepared by: Jeffrey A. Bauer, Senior Commercial Leasing Manager

**PORT COMMISSION**
**CITY AND COUNTY OF SAN FRANCISCO**

**RESOLUTION NO. 04-43**

WHEREAS, Charter Section 3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control Port area of the City and County of San Francisco; and

WHEREAS, Sims Group USA, Inc. ("Sims") has proposed to conduct a metal recycling and transfer center facility at Seawall Lot 349 on property to be leased from the Port Commission; and

WHEREAS, Sims shall comply with a Port approved Environmental Mitigation Plan, which shall become a material exhibit to the Lease, and

WHEREAS, The proposed use of the Seawall Lot 349 as a metal recycling and transfer center is consistent with the California Public Trust, the General Plan of the City and County of San Francisco, the San Francisco Planning Code, the Waterfront Land Use Plan; and

WHEREAS, The Southern Waterfront Final Supplemental Environmental Impact Report (SEIR), San Francisco Planning Department Case No. 1999.377E, was certified on February 15, 2001, which supplemented the Waterfront Land Use Plan Final EIR, certified on January 9, 1997; and

WHEREAS, The site for the Sims Lease proposed at Seawall Lot 349 was analyzed in an Addendum to the SEIR to assess any changes in environmental impacts from the proposed Lease; and

WHEREAS, An Addendum to the SEIR, San Francisco Planning Department Case No. 1999.377E, was published on May 3, 2004, which concluded that the effects of the proposed Sims Lease would not result in any new significant environmental effects beyond those already identified in the SEIR; and

WHEREAS, Under CEQA Guideline Section 15162, no new information of substantial importance has become available, no modification to the project has occurred that would require important revisions to the SEIR, and no substantial changes have occurred with respect to the circumstances under which the project is undertaken since the Planning Commission certified the SEIR, and therefore, there is no need to prepare a supplement to the SEIR or recirculate the SEIR; and

WHEREAS, Pursuant to the requirements of the California Environmental Quality Act, California Public Resources Code Sections 21000 et seq., (CEQA), the Guidelines for Implementation of CEQA, 15 Cal. Administrative Code Sections 15000 et seq., (CEQA Guidelines) and Chapter 31 of the San Francisco Administrative Code, the Port Commission must review and consider the information contained in the SEIR and Addendum, and adopt findings prior to approving the Sims Lease for the uses described above; and

WHEREAS, Project Environmental Impact Report files have been made available for review by the Port Commission and the public, which files are part of the record before the Port Commission; and

WHEREAS, The Port Commission has reviewed and considered the information contained in the SEIR and Addendum; now, therefore, be it

RESOLVED, That the Port Commission hereby adopts CEQA findings and a Mitigation Monitoring and Reporting Program, as required by Section 21081.6 of the Public Resources Code, and as attached to this Resolution ("Findings Affirming the Sims Lease"; Exhibit 1: SEIR Mitigation Measures Required as Conditions of the Sims Lease; and Exhibit 2: the Sims Lease Mitigation Measure Monitoring Program), including findings with respect to the environmental mitigation measures identified in the SEIR, the project alternatives, the potential significant environmental effects of the Project, as approved, and a statement of overriding considerations supporting the decision to approve the Sims Lease; and be it further

RESOLVED, That the San Francisco Port Commission hereby approves a five-year lease between the Port and Sims for a recycling and transfer facility at Seawall Lot 349 upon final terms and conditions to be approved by the Port Commission, in a form to be approved by the City Attorney's Office, which terms and conditions are set forth substantially and in preliminary form in the Memorandum of Agenda Item 4A for the May 25, 2004 Port Commission Meeting.

***I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of May 25, 2004.***

_____
Secretary

# EXHIBIT A

## FINDINGS OF THE PORT COMMISSION AFFIRMING THE SIMS|METAL LEASE

## I. INTRODUCTION

The following findings are hereby adopted by the Port Commission pursuant to the requirements of the California Environmental Quality Act, California Public Resources Code Sections 21000 et seq., (CEQA), the Guidelines for Implementation of CEQA, 15 Cal. Administrative Code Sections 15000 et seq., (CEQA Guidelines) and Chapter 31 of the San Francisco Administrative Code.

These findings are adopted, and incorporated by reference, in the Port Commission Resolution 04-43 dated May 25, 2004, approving a lease at the eastern terminus of 20th Street, at Pier 70 with Sims|Metal.

These findings are based on the Port of San Francisco Southern Waterfront Final Supplemental Environmental Impact Report (SEIR), certified February 15, 2001, and the Addendum to the SEIR dated May 3, 2004. The SEIR provides a comprehensive evaluation of impacts of specific leases, Port infrastructure projects and a program of other potential activities on Port property in the Southern Waterfront area. The SEIR supplements the Waterfront Land Use Plan Final Environmental Impact Report, certified January 9, 1997.

The findings contain the following sections:

Article II is the Description of the Record.

Article III describes the Sims|Metal Lease and its relationship to the project analyzed in the SEIR.

Article IV sets forth findings as to the disposition of each of the mitigation measures proposed in the SEIR. These findings fall into four categories: (1) measures adopted by the Port Commission exactly as proposed in the SEIR and which can be implemented by the Port Commission, (2) measures adopted by the Port Commission as proposed in the SEIR and which will be implemented as a condition of the Sims|Metal Lease, (3) measures recommended by the Port Commission for adoption and which are enforceable by city agencies other than the Port Commission, and (4) mitigation measures proposed in the SEIR which the Port Commission rejects because the measures are not applicable to the uses or activities proposed in the Sims|Metal Lease. Where measures are modified, the modified language is indicated in the text. Exhibit 1, attached to these findings, contains the full text of the SEIR mitigation measures that will be implemented as part of Port Commission approval of the Sims|Metal Lease. Where mitigation measures have been modified, as described below in Article IV, the modifications have been indicated (additions are underlined; ~~deletions are~~

~~shown with strike-through~~). Exhibit 2 contains the Mitigation Monitoring and Reporting Program. Article V of this document addresses the SEIR alternatives and the reasons for the Commission's rejection of those alternatives in the context of approving the Sims|Metal Lease. Article VI identifies the significant adverse environmental impacts (including the unavoidable significant adverse impacts) to which the Sims|Metal Lease would contribute, which have not been mitigated to a level of insignificance by the adoption of mitigation measures as provided in Article V above. Article VII contains a Statement of Overriding Considerations, setting forth specific economic, social and other reasons in support of the Port Commission's approval of the Sims|Metal Lease.

## II. DESCRIPTION OF THE RECORD

Location and Custodian of Record.

The public hearing transcripts, a copy of all letters received during the public review period, the administrative record, and background documentation of the SEIR are located at the Planning Department, 1660 Mission Street, San Francisco. The Planning Department is the custodian of record.

Findings are based on substantial evidence contained in the record before the Port Commission. For ease and clarity of reading, specific citations to information in the record upon which each finding is based may have been omitted. In all instances, however, these findings are based on the information contained in the SEIR, as supplemented with information provided by the applicant, consultants, and interested parties, and reasonable inferences drawn from such information, identified below. Much of this information was cited in the SEIR; all of this information has been and will continue to be available for public review at the offices of the San Francisco Planning Department and/or the Port of San Francisco.

For purposes of CEQA and these findings, the record before this Commission includes, without limitation, the following:

A. All application materials and supporting documents submitted by the Project Sponsor, Sims|Metal;

B. The Waterfront Land Use Plan Final EIR, and associated CEQA Findings adopted by the Port Commission in June 1997;

C. The SEIR, including the Draft SEIR, comments received on the Draft SEIR, Responses to Comments, staff initiated text changes to the SEIR, and all appendices;

D. An Addendum to the Final SEIR, dated May 3, 2004;

E. The Mitigation Monitoring and Reporting Program for the Sims|Metal Lease;

F. All meeting agendas, minutes and reports to the Pier 70 Advisory Committee, Port Commission, or other Boards and Commissions attachments, references and material kept in the ordinary course of business associated with the public planning process;

G. All relevant staff, and public reports and memoranda kept in the ordinary course of business providing substantial evidence to support these findings, and the SEIR, including attachments, appendices and references kept in the ordinary course of business;

H. All public notices, including but not limited to notices of preparation and completion issued for the Sims|Metal Lease, and notices of public meetings.

## III. DESCRIPTION OF SIMS|METAL LEASE AND SEIR PROJECT

This section describes the activity the Port Commission proposes to authorize under the Sims|Metal Lease and the relationship of the proposed lease to the activities analyzed in the SEIR. The SEIR considers a number of proposed industry leases and Port development activities for the Southern Waterfront area. The Sims|Metal Lease was not identified in the SEIR as one of the proposed leases. However, the proposed uses in the Lease, operation of a metal recycling transfer facility in the Pier 70 area, were included among the range of activities analyzed in the SEIR. The San Francisco Planning Department's Major Environmental Assessment Division published an Addendum to the SEIR, dated May 3, 2004, which explains the reasons for concluding that the proposed uses and associated impacts of the Sims|Metal Lease have been adequately addressed in the SEIR. Based on the Addendum, the Planning Department determined that:

1. No substantial changes have occurred to the Project that would involve new significant environmental effects or a substantial increase in the severity of previously identified significant effects:

2. No substantial changes have occurred with respect to the circumstances under which the Project is to be undertaken that would involve new significant environmental effects or a substantial increase in the severity of previously identified significant effects: and

3. No new information of substantial importance has arisen since certification of the SEIR that identified new or substantially more severe significant impacts, that identified new mitigation measures or alternatives that would substantially reduce an identified significant effect, or that shows mitigation measures or alternatives previously found infeasible would be feasible and would reduce one or more significant effects.

See Pub. Res. Code § 21166; 14 Cal. Code Regs. §§ 15162, 15164.

A detailed description of the proposed Sims|Metal Lease and environmental evaluation documents is presented below.

A. The Sims|Metal Lease

Sims|Metal is seeking a five year interim lease from the Port of San Francisco to operate a metal recycling transfer facility that would receive recyclable material, which would be consolidated and transported by truck to Sims|Metal's processing facilities outside San Francisco. The proposed transfer facility site is an approximately one-acre open area located near the eastern terminus of Twentieth Street at the Pier 70. The San Francisco Bay is located approximately 120 feet to the east of the Site.

Sims|Metal transfer facility would receive a variety of recyclable metal material, such as steel reinforcing bars and beams, piping and conduit, drained and evacuated appliances and vehicle parts, steel office furniture and cabinets, steel and aluminum sheets and components, copper and brass piping and valves, Assembly Bill 2020 recyclables (cans, etc.) and other miscellaneous metal equipment. Inbound materials would be accepted from commercial, private and government sources and primarily arrive from construction and demolition (C&D) sites within San Francisco. Sims|Metal only accepts material that has a positive value for recycling. No refuse, non-recyclable waste or hazardous waste would be accepted at the site.

In the metal recycling industry, it is essential that transfer facilities be conveniently located within or near urban centers in order to intercept recyclable materials that otherwise would end up in a landfill. While Sims|Metal has two ferrous processing facilities in the broader Bay Area, in Richmond and Redwood City, both are located too far away and are thus not convenient or feasible for collecting recyclable metals from San Francisco. Locating the Sims|Metal transfer facility at the Pier 70 area would provide a new opportunity for San Franciscans to increase recycling activities in the City.

Upon arriving at the site, material would be inspected for hazardous waste or other non-recyclable materials and weighed, in compliance with all applicable laws and regulations. Within 12-72 hours of receipt (excluding holidays and weekends), the material would then be consolidated into containers for outbound transport to one of Sims|Metal's processing facility via semi trailer truck. No long-term storage would occur at this site. Material would be moved offsite in the form that it was received. No processing, dismantling or crushing would occur on site.

The transfer facility's hours of operation would be approximately 7:00 AM to 4:30 PM, Monday through Saturday. Initially, the transfer facility would employ four to six people with an increase in staff contemplated as business levels increased. Parking for employees would be provided on site. It is Sims|Metal's policy to train and hire local residents whenever possible. All new hires would receive safety training regarding the handling of materials as well as extensive training on the type of materials than can be accepted at the site.

The proposed site would be paved, with curbs and fencing installed around the perimeter of the leasehold. Site preparation for the proposed transfer facility would be limited to

installation of perimeter fencing, paving, an above-ground scale, a temporary storage shed (20 feet long, 8 feet tall and 8 feet wide) to store tools, spare parts, and incidental maintenance items, an office trailer, and utility hookups. The site is currently not served by any functioning utilities and would thus require the installation of electrical power, telephone and a water/sewer hook up.

The lease term is for 5 years. The Sims|Metal Lease would include SEIR mitigation measures as conditions of the lease, to avoid or minimize significant environmental impacts.

B. Project Analyzed in the Southern Waterfront Supplemental Environmental Impact Report (SEIR)

1. Background of SEIR and Relationship to Other Documents. In January 1997, the San Francisco Planning Commission certified the Waterfront Land Use Plan Final EIR (WLUP FEIR), a Program EIR that analyzed the impacts of a full range of land use alternatives and variants on Port property, including the Southern Waterfront area between Pier 70 to India Basin. The Waterfront Land Use Plan, and the WLUP FEIR and associated CEQA Findings adopted by the Port Commission in June 1997 also include a comprehensive discussion of the Port's public trust and financial responsibilities, and the local and state regulatory framework for waterfront projects, which set the context for the Port's land use policies, including those for the Southern Waterfront.

2. SEIR Project Description. As described in the WLUP FEIR and CEQA findings, market conditions and other factors will determine the nature of development that occurs along the waterfront, consistent with the Waterfront Land Use Plan. In 1999, the Port received several development proposals in the portion of the Port of San Francisco known as the Southern Waterfront. Development proposals in the Southern Waterfront consisted of those from various private entities, most of which are involved in the production, storage or processing of construction materials or their constituents, including a proposal for a construction debris recycling center at Pier 70 (collectively identified as "Industry Group" in SEIR). In June 1999, the Major Environmental Assessments division (MEA) of the San Francisco Planning Department determined that these proposed activities could have potential significant physical environmental effects that were not fully analyzed in the WLUP FEIR, and thus required supplemental environmental review. Rather than prepare separate supplemental EIR's, MEA directed that all the proposed individual projects be combined and analyzed in a single document, the Southern Waterfront Supplemental EIR (SEIR). The SEIR analyzes existing uses and conditions, and the proposed Industry Group uses and Port infrastructure projects listed below, which are analyzed at a project-specific level of detail.

- Waste Resources Technologies ("WRT") – proposed construction debris recycling and processing facility at Pier 70
- Bode Gravel Company/Mission Valley Rock – concrete ready-mix plant and aggregate import terminal, and asphalt batch plant at Pier 92
- RMC Pacific– proposed concrete ready-mix plant at Pier 80
- British Pacific Aggregates/Hanson Aggregates – aggregate bulk imports, and possible concrete ready-mix and asphalt plants at Pier 94

- ISG Resources – proposed import, storage and transloading of fly ash in the Pier 90 former grain silos and adjacent dock
- Coach USA – proposed tour bus maintenance and repair facility at Pier 96
- Illinois Rail and Truck Bridge – proposed as a connection between the Port's North and South Marine Terminals across Islais Creek
- Port Dredged Materials Storage Operations – storage and transshipment of Bay mud removed during Port maintenance dredging of its terminal berths

In addition to the above use proposals, the SEIR analyzes the environmental effects of potential development scenarios that could occur on adjacent or nearby Port-owned property in the Southern Waterfront. There are no actual proposals for these development scenarios, and therefore the impacts are evaluated at a program (less specific) level of detail. The Port and MEA determined the need to include development scenarios to ensure that the SEIR's cumulative impact analyses adequately took into account the effects of other leasing, cargo or development activity that could be proposed on Port property. The Port has been working actively to solicit new contracts for cargo shipping, development proposals for the Pier 70 Mixed Use Opportunity Area, and to carry out community planning efforts for possible new development in the Pier 90-94 backlands area. While it is unknown as to whether any actual development will be proposed, the Port recognized the potential for developments or unanticipated proposals to emerge while preparation of the SEIR was underway, or after certification. As a result, it was decided that the SEIR description of the "Project" include assumptions of potential development to establish a conservative cumulative impact analysis that tends toward identifying a relatively high-end level of impacts. The SEIR Project, therefore, encompasses the Industry Group proposals, certain Port infrastructure proposals and other less specific Port development in the Southern Waterfront area. The potential development assumptions fall into the following categories, which are further detailed in the SEIR:

- Development of 200,000 square feet of future general industrial development at Pier 70
- Development of an additional 200,000 square feet of maritime industrial uses in the Pier 70 Maritime Reserve Area
- Increased cargo shipping activity at the North and South Marine Terminals
- Potential, new development on the Western Pacific site, the Pier 90-94 Backlands, and portions of Pier 96

The inclusion of the potential development assumptions with the specific Industry Group and Port infrastructure improvements in the SEIR "Project" makes the SEIR somewhat unique. The SEIR not only provides the analysis of project-specific impacts and mitigations for each proposed Industry Group lease or Port infrastructure project, it also functions as a Program EIR (as described in CEQA Guidelines Section 15168) in its evaluation of other potential Port development at a less-specific level of detail. With this scope of activities and approach, the SEIR has been structured to, as much as possible, meet environmental evaluation requirements under CEQA for Southern Waterfront projects that may be considered for approval on separate timelines. For the Industry Group and Port infrastructure projects, the SEIR meets all CEQA environmental review, the nature of which would depend in part on

how closely a proposal matches or is encompassed by the uses and impacts analyzed in the SEIR.

The SEIR contains a focussed analysis of the following impact topics: Land Use, Transportation, Air Quality, Hydrology and Water Quality, Hazardous Materials, Biological Resources, and Growth Inducement. The SEIR's cumulative transportation and air quality analysis takes into account nearby land use and transportation changes outside the Port's jurisdiction. The description of use and transportation assumptions underlying the SEIR analyses, on and off Port property, are provided on SEIR pp. 1-24, 45-47, and 96-97. In addition to the projects listed above, the cumulative transportation and air quality analysis takes into account cumulative development either approved or proposed on adjacent or nearby areas outside of the Port's jurisdiction, including Mission Bay, Bayview Hunters Point community, and the proposed expansion of the Potrero Power Plant.

3. SEIR Analysis Timeframe. The broad array of activities included in the SEIR Project would occur at varying points in time. The proposed Industry Group leases were presumed to occur as soon as the Port and Industry Group entities could negotiate their respective leases following certification of the SEIR. The Port's Illinois Street Rail and Truck Bridge, and Dredged Material Handling Facility were assumed to occur as soon as the Port secured the remaining funding, approval and/or contracting necessary to implement these infrastructure facilities. In contrast, most of the projected growth in cargo, and development program assumptions for other Port properties were not assumed to occur in the near-term.

As a result, the SEIR analyzes the various activities in two different timeframes, years 2003 and 2015. See pp. 6-7 of the SEIR for a listing of the sites and proposed uses, broken down by analysis year. In 2003, the SEIR assumes implementation of all the Industry Group leases, and some growth in cargo and industrial activities ("Phase I") in addition to existing activities. The 2003 transportation analysis is presented in two contexts: one without the presence of the Illinois Street Bridge and Third Street MUNI Metro light rail improvements, and one with these two transportation improvement projects in place.

The Year 2015 timeframe assumes implementation of the Industry Group leases, the Illinois Bridge and MUNI Metro light rail on Third Street, more projected cargo and other industrial activity than in 2003; and potential development of the Pier 70 Maritime Reserve and Mixed Use Opportunity Area and Pier 90-94 Backlands.

4. SEIR Alternatives. In addition to the Project as described above, the SEIR analyzes the following three alternatives:

- Alternative A: The No Project Alternative, which would entail no change to the project area. None of the Industry Group leases or Port infrastructure projects, nor would the future development envisioned for the Pier 70 area occur.

- Alternative B: Reduced Scale Alternative, which assumes the same projects and activities as the Project, except that the Mission Valley Rock and British Pacific Aggregates (now Hansen) asphalt plants, and the Coach USA bus storage and maintenance facility would not occur; lower concrete production volumes assumed in

2003 would be maintained in 2015; there would be a lower level of cargo shipping than assumed in the SEIR Project Description; and there would be no assumed development in the Pier 90-94 backlands. Alternative B assumes that WRT's construction materials recycling plant at Pier 70 would be in operation. The SEIR identifies Alternative B as the Environmentally Superior Alternative in accordance with Public Resources Code Sections 21002 and 21081. Alternative B would result in less substantial traffic impacts and have slightly less impact on air quality than the Project.

- Alternative C: Residential Use Future Scenario, which assumes residential uses together with mixed office/research and development space assumed in the Pier 70 Mixed Use Opportunity Area.

5. SEIR Addendum for Sims|Metal Lease. The proposed Sims|Metal Lease is not specifically described in the SEIR as one of the proposed Industry Group project components. However, the SEIR does analyze the impacts of 200,000 square feet of general industrial development at Pier 70 in the same area as the proposed lease. The SEIR also analyzed a larger scale construction debris recycling and processing facility by Waste Resources Technologies at Pier 70, which no longer is being pursued, that had been proposed in the same vicinity as the proposed Sims|Metal Lease site. The SEIR identifies mitigation measures to avoid any significant environmental impacts and Sims|Metal has agreed to implement all applicable measures as conditions of its lease with the Port.

The Sims|Metal proposal was forwarded to the Major Environmental Assessments (MEA) Division of the San Francisco Planning Department for a determination of whether further environmental review was required. MEA reviewed the proposal and has concluded that the SEIR adequately covers the environmental effects of the Sims|Metal Lease. An Addendum to the SEIR, dated May 3, 2004, has been published documenting the reasons for this determination.

6. Approvals Related to the Sims|Metal Lease. The primary approval actions related to the Sims|Metal Recycling Transfer Facility is Port Commission approval of these findings and approval of the Sims|Metal Lease. In addition, Sims|Metal will need to obtain construction permits from the Port.

## IV: MITIGATION MEASURES

The findings in this section concern mitigation measures set forth in the SEIR, Chapter IV Mitigation Measures Proposed to Minimize the Potential Adverse Impacts of the Project, which include a listing of the applicable mitigation measures, by topic, originally presented in the WLUP FEIR. All of the mitigation measures in the SEIR have alpha numeric codes which are used to refer to the measures in these findings.

The scope of impacts analyzed in the SEIR reflects a broad range of activities, described above, generated from Port lease and infrastructure projects, as well as potential additional development that could occur on Port Southern Waterfront property or on adjacent or nearby

non-Port owned lands. As a result, not all of the mitigation measures will apply to the Sims|Metal Lease.

In the text of these findings, mitigation measures that are applicable to the Sims|Metal Lease and which would be adopted by Sims|Metal or the Port Commission are summarized in a few sentences. Mitigation measures within the jurisdiction of other agencies are similarly referenced together with an indication of the appropriate jurisdiction. Mitigation measures which are modified, or rejected because they are not applicable to the uses proposed in the Sims|Metal Lease are summarized with sufficient specificity to allow the reader to understand the rationale for the action. Modifications to mitigations are set out in detail. No mitigation measure applicable to the Sims|Metal Lease operation is rejected in its entirety. Exhibit 1, incorporated herein by reference, contains the complete text of each mitigation measure as presented in the SEIR that is required as a condition of the Sims|Metal Lease, with any modifications shown (additions are underlined; deletions are shown with ~~strike through~~ ). The mitigation measures fall into five categories:

1) Mitigation measures adopted by the Port Commission exactly as proposed in the SEIR and which can be implemented by the Port Commission;

2) Mitigation measures adopted as proposed in the SEIR and which can be implemented as a condition of the Sims|Metal Lease;

3) Mitigation measures which are implemented or enforced by city agencies other than the Port Commission: MUNI and the Department of Parking and Traffic (Mitigation Measures B.1);

4) Mitigation measures proposed in the SEIR which the Port Commission rejects because it has determined that the measures are not applicable to the uses or activities proposed in the Sims|Metal Lease.

The Port Commission finds that the mitigation measures adopted or recommended for adoption by another agency, either as they appear in the SEIR or as proposed for modification, are feasible and enforceable through the Sims|Metal Lease or through the other anticipated approvals identified above. Based on the information contained in the SEIR and the administrative record, the Port Commission has found that the mitigation measures in the SEIR will mitigate, reduce, or avoid significant effects and are hereby adopted by the Port Commission and recommended for adoption and implementation by other City agencies, which agencies can and should adopt these measures. Measure B.1 identifies various improvements to mitigate unacceptable congestion levels projected in year 2015 at specified intersections, which fall within the jurisdiction of the Department of Parking and Traffic (DPT) and MUNI. The Port has consulted with MUNI and DPT regarding the feasibility of implementing these improvements in the future. While it is not possible to determine definitively at this time whether these measures will be implemented as specifically described in the SEIR, the measures appear to be feasible and could be considered for implementation by DPT if the projected changes in traffic conditions occur.

## A. Mitigation Measures Adopted by the Port Commission as Proposed

The following SEIR mitigation measures are found to mitigate, reduce, or avoid significant environmental effects, and are hereby adopted for implementation by the Port Commission.

Transportation

B.3 Implementation of the Illinois Street Rail and Truck Bridge proposed by the Port would improve operating conditions at Third Street and Cargo Way to acceptable levels of service, and reduce the Project's contribution to significant air quality impacts, compared to conditions without the proposed bridge. Implementation of this measure is dependent on the Port's ability to secure all applicable regulatory approvals for the Bridge, and the remaining funding necessary to cover the cost of construction and installation.

B.4 This measure requires the Port to comply with requests from the Major Environmental Analysis section of the Planning Department to analyze intersection levels of service for existing and future traffic conditions at intersections that may reasonably be expected to be affected by each future development, and identify and implement appropriate mitigation measures. This measure originated in the WLUP FEIR, and was modified and adopted by the Port Commission in 1997. The mitigation measure, as presented in the SEIR, includes the approved 1997 modifications. This measure is implemented primarily through the environmental review process for individual public and private projects proposed on Port property. Implementation by the Port or Port project developer of identified mitigation measures depends in part on the degree to which the Port project contributes to significant impacts, and whether the affected streets are in the jurisdiction of the Departments of Public Works (DPW) and Parking & Traffic (DPT), which are generally responsible for managing traffic improvement projects. For example, the Port is taking responsibility for securing funding and implementation of the Illinois Street Bridge, a Port infrastructure project that is not under the jurisdiction of either DPW or DPT, which has been identified as a mitigation measure in the SEIR.

Hazards

E.3 To mitigate hazards associated with disturbance of an existing soil stockpile that may occur during site construction, this measure requires the Port to contract, or require Port tenant(s) to contract, for disposal of any portion of the soil pile at Pier 92. This measure was adopted by the Port Commission, and implemented in 2003, resulting in the removal and disposal of the soil, in accordance with all applicable environmental laws and regulations.

Geology, Soils and Seismicity

G.12 This measure requires the Port to work in cooperation with the City's Office of Emergency Services (OES), Fire Department and Police Department to plan routes of alternative emergency access to development sites and hospitals. This measure originated in the WLUP FEIR and was adopted by the Port Commission, as modified, in 1997. The mitigation measure, as presented in the SEIR, includes the approved 1997 modifications. The Port is one of several City agencies that has been working in coordination with the Mayor's Office of Emergency Services (OES), and Fire and Police Departments to set up a

communications procedure that enables emergency access routes to be identified based on reports of road or transportation network damage, obstructions or other circumstances following a catastrophe that could affect emergency routes.

G.13 To mitigate hazards associated with piers that are in poor condition, this measure calls for development and regular inspection of the condition of the piers, and for development of a maintenance and repair schedule, coordinated with the Port's Capital Plan. This measure originated in the WLUP FEIR and was adopted by the Port Commission, as modified, in 1997. The mitigation measure, as presented in the SEIR, includes the approved 1997 modifications. To date, the Port has been performing pier condition inspections, primarily for structures in questionable condition, or for facilities proposed for new leases or development projects. The Port's Engineering staff is currently in the process of developing a program to define a systematic approach to prioritizing and conducting pier condition studies in the future. In addition, the Port Commission has authorized funds to purchase new software and consulting services to establish a state-of-the-art Facility Maintenance Management program. The Facility Maintenance Management program will work hand in hand with the Pier Condition Inspection and Prioritization program to improve maintenance and repair of the Port's facilities.

## B. Mitigation Measures Adopted as Proposed as a Condition of the Sims|Metal Lease

The following SEIR mitigation measures are found to mitigate, reduce, or avoid significant environmental effects, and are therefore included as a condition in the Sims|Metal Lease.

Air Quality

C.3 This measure requires that all tenants, including Sims|Metal, to make good faith efforts to engage in operational practices sensitive to the environment and the neighboring community, consistent with the City's Clean Air Program. This measure calls for operators of fleet vehicles to investigate the potential for use of low-or zero emission vehicles and implementation of measures to reduce vehicle emissions to the maximum feasible extent, and provides a list of options to achieve that objective. The measure also requires that tenants operating diesel-powered stationary equipment investigate similar options, and that the Port provide economic incentives to minimize diesel emissions on Port property. This measure will be implemented as a condition of the Sims|Metal Lease.

C.5 This measure, which originated in the WLUP FEIR, requires the Port to require Sims|Metal's construction contractor(s) to implement a dust abatement program to reduce the contribution of the project construction to local PM-10 concentrations. The measure lists a series of specific practices to achieve the dust abatement objective. The measure will be implemented as a condition of the Sims|Metal Lease.

Hydrology

D.1 To reduce potential water quality impacts associated with runoff from construction activities, this measure requires the preparation and implementation of a Storm Water Pollution Prevention Plan (SWPPP) for construction sites of larger than one acre of disturbed area, similar to that required under the statewide General Permit for Storm Water Discharges

Associated with Construction Activity. This measure will be implemented as a condition of the Sims|Metal Lease.

D.2 This measure requires that all developers and tenants, including Sims|Metal, implement source control Best Management Practices to minimize the potential for water quality degradation from stormwater runoff associated with site operations, consistent with those identified in the Industrial/Commercial Storm Water Best Management Practices Handbook. This measure will be implemented as a condition of the Sims|Metal Lease.

Hazards

E.1 To reduce impacts from spills or other releases that may occur with the use of hazardous materials, this measure requires project sponsors to prepare a Hazardous Materials Business Plan for project components involving the use of petroleum products or hazardous materials. This measure also requires preparation of a Spill Control and Countermeasure Plan for any project involving the above-ground storage of petroleum products. This measure will be implemented as a condition of the Sims|Metal Lease.

Geology, Soils and Seismicity

G.2 This measure, which originated in the WLUP FEIR, requires the Port to require tenants to carry out various tasks to minimize hazards to building occupants from non-structural damage, such as securing heavy or large overhead equipment to floors and walls. This measure will be implemented as a condition of the Sims|Metal Lease.

G.4 This measure, which originated in the WLUP FEIR, calls for non-structural building elements to be designed to withstand strong ground shaking and to remain intact. This measure will be implemented as a condition of the Sims|Metal Lease.

G.5 This measure, which originated in the WLUP FEIR, requires the use of flexible utility connections, automatic shut-off valves for natural gas pipelines, or as otherwise required by the San Francisco Fire Department or Port Fire Marshal. This measure will be implemented as a condition of the Sims|Metal Lease.

G.6 This measure, which originated in the WLUP FEIR, requires fire extinguishers adjacent to exit doors, consistent with the San Francisco Fire Code. It also requires that employees be trained on how to use the extinguishers. This measure will be implemented as a condition of the Sims|Metal Lease.

G.9 This measure, which originated in the WLUP FEIR, calls for tenants to design all facilities for storage of hazardous chemicals in containers to minimize potential hazards in an earthquake, consistent with Fire Department and/or Health Department requirements. This measure will be implemented as a condition of the Sims|Metal Lease.

## C. Mitigation Measures Within the Jurisdiction of Other City Agencies

The Port Commission finds that the mitigation measure set out below, as it appears in the SEIR falls within the jurisdiction of the Department of Parking and Traffic (DPT). The

Commission determines that such measure should be carried out by DPT or MUNI at the appropriate time, and can and should be adopted by DPT. The Port has reviewed SEIR Mitigation Measure B.1 below with staff of the DPT and MUNI, which determined that these signal and traffic improvements appear to be feasible. The Secretary of the Port Commission is hereby directed to transmit copies of these measures to DPT.

Transportation

B.1 This mitigation measure identifies various roadway and signalization improvements to improve levels of service projected to occur by the year 2015 (but after 2003) at the following intersections during the a.m and/or p.m. peak hour: Third/25th Streets; Illinois/25th Streets; Pennsylvania/I-280 (Southbound) on-ramp; Pennsylvania/Cesar Chavez Streets; Third/Cesar Chavez Streets; Illinois/Cesar Chavez Streets, and Amador Street/Cargo Way. New signals called for in these mitigation measures for the intersections of Illinois/25th Streets, Illinois/Cesar Chavez Streets, and the restriped eastbound and westbound lanes at Illinois/Cesar Chavez to provide the suggested land reconfigurations will be implemented as part of the MUNI Third Street Light Rail project. The signal improvement at Amador Street/Cargo Way would be implemented by the Port as part of the construction of the Illinois Rail and Truck Bridge.

The Port has consulted with MUNI and DPT regarding the feasibility of the remaining improvements described in this mitigation measure. At this time, there is no secured funding for the signal installation at Pennsylvania/I-280 SB or right-of-way acquisition to accommodate the lane configuration proposed for Third and Cesar Chavez. In addition, the final configuration of the 3rd/25th Street intersection regarding the left-turn lane will require further discussion with DPT, MUNI and Planning Department. Further, the Port will need to continue discussion with DPT over sources of funding and assignment of responsibility for the implementation of any of these measures, if determined to be necessary. While it is not possible to determine definitively at this time whether these measures will be implemented if they are required by development, the measures appear to be feasible. The Port Commission recommends that the Department of Parking and Traffic implement the remaining improvements described in this measure, as modified, to clarify that these measures be carried out by DPT only if future traffic analysis indicates the need for the roadway or signalized remedies described in this mitigation measure. Furthermore, the Port Commission recommends that the Port work in close coordination with DPT, MUNI and the Planning Department to ensure that the intersection improvements at 3rd/25th Streets, and 3rd/Cesar Chavez Streets balance and optimize maritime, MUNI light rail as well as vehicular circulation. The Commission also acknowledges that the Port may be required to share in the capital cost of implementing those mitigation measures that are not carried out as part of the Third Street Light Rail or Illinois Truck and Rail Bridge projects, if it is demonstrated that Port-related development generates significant contributions to unacceptable levels of service at Third/25th Sts., Pennsylvania/I-280 SF on-ramp, Pennsylvania/Cesar Chavez St, or Third/Cesar Chavez Streets.

## D. Mitigation Measures Rejected and the Reasons for Rejection

Chapter IV, Section J of the SEIR. (pp. 161 – 164) is entitled "Measures From the 1997 Waterfront Plan FEIR Not Applicable to the Project Analyzed in this SEIR". They include Transportation; Visual Quality; Geology, Soils and Seismicity measures that pertain to Port property north of the Project Area. As a result, these measures are rejected as inapplicable to the Southern Waterfront projects, including the Sims|Metal Lease.

In addition, the Port Commission finds that certain of the SEIR mitigation measures are not applicable to the uses or activities proposed in the Sims|Metal Lease, and thus are rejected. Each mitigation measure is followed by a statement of the reasons why it is rejected.

Transportation

B.2 This measure requires the Port to develop a Transportation Systems Management (TSM) Plan, and potentially a Transportation Management Agency (TMA) at such time as specific mixed use or other non-industrial projects generating more than 100 daily vehicle trips are approved and occupied at the Pier 70 Mixed Use Opportunity Area and the Pier 90-94 backlands. The Sims|Metal Lease proposes industrial uses, not mixed use or other non-industrial projects. Therefore this measure is rejected because it is not applicable.

B.5 This measure requires the Port to require and/or institute Transportation Demand Management Programs (TDM) among developers of major trip generators, as a condition of lease approval, for projects such as new development at the Pier 70 and 90-94 backlands. The TDM would typically target primarily commute trips and would encourage carpools, vanpools and public transit use to reduce trips made by low-occupant private vehicles. The vehicle operations and employee trips associated with the Sims|Metal Lease would not reflect the travel conditions that this measure seeks to mitigate. The majority of daily trips to and from the proposed facility would be from commercial, private and governmental sources and semi-trailer trucks picking up and dropping of recyclable material which are not conducive to ridesharing. Most of these trips would occur during non-peak hours given standard construction and trucking schedules. In addition, the facility would employ only 4 to 6 employees. This low volume of employee trips would not render a successful TDM. For the reasons described, this measure is rejected as non-applicable to the Sims|Metal Lease.

Air Quality

C.1 This measure requires construction aggregate industry project applicants to include "best available control technology" (BACT) to control emissions, consistent with current regulations. The Sims|Metal Lease does not involve a construction aggregate industry project and it is therefore rejected as not applicable.

C.2 This measure requires drum mixer controls in asphalt batch plants, a product which is not proposed in the Sims|Metal Lease, and which is therefore rejected as non-applicable.

C.4 This measure requires the Port to develop a Transportation Systems Management (TSM) Plan and potentially a Transportation Management Agency (TMA) at such time as specific mixed-use or other non-industrial projects generating more than 100 daily vehicle trips are approved and occupied at the Pier 70 Mixed-Use Opportunity Area and the Pier 90-

94 backlands. These types of uses are not included in the Sims|Metal Lease. Therefore, this measure is rejected as non-applicable to the Sims|Metal Lease.

C.4a To regulate the total quantity of air emissions from the concrete and asphalt industry operations, this measure requires that any lease for concrete or asphalt batching operations on Port property include a provision setting forth the maximum production volume allowed to ensure that such production level, combined with production levels by other concrete and asphalt batch plant operators with leases on Port property, are consistent with the assumed volumes, and associated transportation and air quality impacts analyzed in the SEIR. The Sims|Metal Lease does not involve concrete and asphalt industry operations and therefore this measure is rejected as not applicable.

C.6 This measure requires the installation and operation of wheel-washing systems at Industry Group and aggregate-related tenant's plant exits; daily sweeping on streets surrounding the aggregate facilities and posting on exterior walls or fences of such aggregate facilities a company telephone number for citizens to call with dust, noise or other operational complaints. This measure does not apply to the proposed Sims|Metal recycling transfer facility because the Sims|Metal Lease does not involve aggregate related facilities, but rather is confined to a metal recycling transfer facility.

Hydrology

D.3 This measure requires that stormwater runoff from new or redeveloped facilities located outside the City's combined sewer system provide treatment so that there is no direct, untreated discharge to the Bay or Islais Creek. Sims|Metal will discharge into the City's combined sewer system and therefore this measure does not apply and is rejected.

D.4 This measure, which originated in the WLUP FEIR, requires members of the Industry Group and other project sponsors to implement appropriate Best Management Practices for stormwater pollution prevention through the life of each lease, and to monitor stormwater quality in accordance with requirements of the General Permit for Discharge of Industrial Stormwater. Sims|Metal will discharge stormwater into the combined sewer system and thus will comply with Best Management Practices as set forth in Mitigation Measure D.2. Because Sims|Metal will not obtain a General Permit of Industrial Stormwater, this measure is rejected as non-applicable to the Sims|Metal Lease.

D.5 This measure requires sponsors of projects located on or adjacent to the Bay to include contractor's construction specifications to minimize effects on water quality. Construction of the Sims|Metal metal recycling transfer facility is not located on or along the water's edge; it is located approximately 120 feet inland. Therefore, this measure is rejected as non-applicable to the Sims|Metal Lease.

Hazards

E.2a This measure contains a discussion of site mitigation report requirements to comply with Article 22A, "Analyzing the Soil for Hazardous Wastes", and includes reference to a site mitigation report would be required for the projects sponsored by Bode Gravel and Mission Valley Rock Companies, which is unrelated to the Sims|Metal Lease. Article 22 A only

applies to projects that include the disturbance of more than 50 cubic yards of soil. The construction and operation of the proposed Sims|Metal facility will not involve the disturbance of more than 50 yards of soil and thus this measure is rejected as not applicable.

E.2b To reduce off-site exposure to hazardous substances, this measure requires that where subsurface contamination is identified, the project sponsor will ensure that the affected area will be enclosed with a fence, and warning signs installed, until all remedial activities have been completed. Sims|Metal will not disturb subsurface areas. This site is relatively flat and will require only minimal superficial leveling prior to paving. Sims|Metal will appropriately handle and dispose of the minimal amount of soil that may be excavated during these construction activities. Therefore, this measure is rejected as not applicable.

E.4 This measure requires hazardous building material surveys for listed contaminants be conducted prior to any development involving the demolition or renovation of existing facilities. There are no existing built facilities on the Sims|Metal site and thus no proposed demolition or renovation. Thus, this measure is rejected as non-applicable to the Sims|Metal Lease.

Biological Resources

F.1a, F.1b Both these measures establish conditions under which dredging could be limited to avoid impacts on the Pacific herring fishery. There is no dredging proposed as part of the Sims|Metal Lease. Accordingly, these two measures are not applicable and are thus rejected.

F.2 This measure requires bat surveys during specified times of the year prior to demolition or renovation of any abandoned building. The Sims|Metal Lease site is vacant, and thus this measure is rejected as being non-applicable.

Geology, Soils and Seismicity

G.1 This measure, which originated in the WLUP FEIR, requires that a geotechnical investigation be conducted prior to permitting any new construction of facilities or reuse of existing structures for intensified use. The proposed transfer facility is situated at a currently vacant site and thus will not modify or reuse any existing structures for intensified use. In addition, structures placed on the site would be limited to a temporary storage shed and office trailer and thus there would be not qualify as construction of any new facility. Accordingly, this measure is not applicable and is thus rejected.

G.3 This measure calls for high-occupancy facilities to store emergency response supplies and equipment on-site for a 72-hour reserve. This measure focuses on facilities that employ large numbers of workers, or attracts large numbers of visitors, and suggests that medical supplies such as stretchers, loud speakers and heavy tools be stored on-site in addition to blankets, flashlights and at least 72 hours' worth of potable water and non-perishable food supply. The Sims|Metal Lease will only employ four to six people and this neither a high employment generator nor a visitor attraction. Therefore, this condition is not applicable and thus rejected.

G.7 This measure requires tenants to prepare earthquake preparedness and response plans for uses with more than 100 employees, and public uses accommodating more than 100 persons. Sims|Metal will not have more than 100 employees, therefore neither of these conditions applies to Sims|Metal Lease, and therefore this measure is rejected as non-applicable.

G.8 This measure encourages the Port and its tenants to take feasible steps to minimize potential earthquake safety risks related to hazardous materials in its operations, and identifies specific practices that may be applied to achieve that objective. The Sims|Metal Lease would use or store only minor amounts of hazardous materials, primarily comprised of small amounts of lubricants incidental to maintaining equipment. Trucks would be maintained off site and would be fueled off site or by a mobile fuel truck. This use does not appear to be substantial enough to warrant the measures identified in G.8. In addition, the Sims|Metal Lease incorporates mitigation measure G.9 which requires the safe storage and handling of hazardous chemicals in containers (i.e., lubricants) to minimize hazards in an earthquake. Therefore, this measure is rejected as not applicable.

G.10 This measure, which originated in the WLUP FEIR, calls for tenants to employ an engineer qualified in earthquake engineering to incorporate all economically feasible engineering methods into the final facility design, to reduce the potential for loss of life-line services. As discussed above, the structures located on the proposed transfer facility are limited to perimeter fencing, an above ground scale, a temporary storage shed and an office trailer and thus do not qualify as a "facility" as referenced in this measure. Therefore, this measure is rejected as non-applicable.

G.11 This measure calls for use of flexible connections for utility lines, back-up supplies of water, telecommunications equipment or other features to minimize hazards from earthquakes or other emergencies. The measure indicates that engineers should be consulted to recommend the appropriate approach to achieving this objective. Sims|Metal will implement mitigation measure G.7 which provides for flexible connections for utility lines. Because site operations are limited to inspection, pick up, drop off and weighing of recyclable material, and does not include uses which require a water source, power generators or telecommunication equipment (other than incidental employee facilities), it is not necessary to install backup supplies of such equipment. Accordingly, this measure is rejected as non-applicable.

G.14 This measure calls for all open sub-grade structures and pits, whether temporary or permanent, to provide protection against hazards to people and damage to proposed or nearby structures that could result from buoyant or lateral deforming soils. The site of the Sims|Metal Lease does not contain any sub-grade structures or pits, nor would any be excavated as part of the lease. Accordingly, this measure is rejected as non-applicable.

G.15, G.16, G.17 These three measures set forth requirements for analyzing any dewatering plans that may be necessary during site construction, including any pile driving; minimizing dewatering hazards; and posting of bonds or equivalent mechanism to cover the costs of

potential damage from construction to off-site property. Construction of the proposed transfer facility will not require any dewatering, accordingly, this measure is rejected as non-applicable.

G.18, G.19 These measures, which originated in the WLUP FEIR requires that prior to dewatering or pile driving, the Port provide a minimum 30 day advance notification to property owners within 200 feet of the demolition or excavation, whichever is the first to occur in a construction project. This mitigation measure would minimize damage associated with subsidence by allowing property owners to comment on the activities and document any damage that may occur. Construction of the proposed transfer facility will not require any dewatering, accordingly, this measure is rejected as non-applicable.

G.20 This measure calls for proposed new dredging activities be reviewed by an engineering geologist to assess potential hazards to Port facilities. There is no dredging proposed in the Sims|Metal Lease, and therefore this measure is rejected as non-applicable.

G.21 This measure requires that sites of all demolished buildings be left in a condition that will not pose a life safety hazard or potential to damage adjacent properties. There is no demolition proposed in the Sims|Metal Lease, and therefore this measure is rejected as non-applicable.

Historic Architectural Resources

H.1 This measure calls for review by a qualified historic preservation architect for proposed renovation plans for Building 6 at Pier 70 prior to issuance of any demolition or building permit for reuse of the building. The Sims|Metal Lease covers an areas of vacant land that does not include Building 6. Therefore, this measure is rejected as non-applicable.

Archeological Resources

I.1 This measure requires that an archaeologist be retained to prepare a brief preliminary site-specific evaluation or letter report assessing the archaeological sensitivity of a development site, if the project involves excavation or substantial soil disturbance of greater than four feet in depth. The measure also includes a description of the steps that could be taken, as determined through consultation between the archaeologist and the Environmental Review Officer, if further study is necessary and/or archaeological deposits are discovered. The Sims|Metal Lease would not excavation or substantial soil disturbance and therefore this measure is rejected as not applicable.

## F. Adoption of a Mitigation Monitoring and Reporting Program

The Port Commission hereby adopts a Mitigation Monitoring and Reporting Program (MMRP) as required by Section 21081.6 of the Public Resources Code. The MMRP is attached as Exhibit 2 and incorporated in this document by reference. The purpose of the MMRP is to determine the stage at which each of the adopted mitigation measures must be imposed to ensure that the measure is carried out by the responsible official or entity, or if the obligation lies with a private entity, that the City enforces the obligation.

Sims|Metal and the Port will implement the majority of the mitigation measures. Sims|Metal will implement most of the measures as a condition of its lease, with the Port enforcing the lease conditions. The Port will have responsibility for implementing other measures as part of its implementation of the Waterfront Land Use Plan. The Port Commission in 1997 previously adopted most of these measures, some of which have been implemented, as described above. The Department of Parking and Traffic will implement intersection improvements identified in measure B.1.

## V: FINDINGS REGARDING ALTERNATIVES IN THE SEIR

As described in Section III above, the SEIR encompasses a broad range of activities. The SEIR analysis evaluates proposed, site-specific leases and Port improvement projects; and possible future development or uses that could emerge in response to changes in market conditions, and Port planning and development efforts underway (e.g. Pier 70 Mixed Use Opportunity Area, Pier 90-94 Backlands). The Sims|Metal Lease is the only proposed use that is being considered for approval by the Port Commission in these findings.

As a result, these findings focus on the Commission's consideration of the environmental impact information in the SEIR and SEIR Addendum, dated May 3, 2004 relevant to the metal recycling transfer facility operations proposed in the Sims|Metal Lease. Pursuant to CEQA Guidelines, these Findings must consider, and adopt or reject the alternatives analyzed in the SEIR. As indicated above in Section III and discussed further below, the SEIR Project and the SEIR alternatives consider overall development scenarios in the Southern Waterfront area. While they do not focus specifically on the metal recycling transfer facility use proposed in the Sims|Metal Lease, the SEIR Addendum describes the similarity between of that use with the WRT Industry Group proposal and development, which impacts are analyzed in the SEIR and address environmental impacts of the SimsMetal proposal. Proposals for uses other than the Sims|Metal Lease would be subject to separate, future CEQA Findings and actions by the Commission and applicable regulatory agencies. As a result, the Commission's careful consideration and rejection of the SEIR alternatives, as explained below, is based on its consideration only of the proposed Sims|Metal Lease. These Findings do not attempt to assess the overall merits or shortcomings of the SEIR Alternatives as compared to the SEIR Project, or those of other individual leases or activities that may be considered for approval by the Commission in the future.

### A. Reasons for Selecting the Sims|Metal Lease

After consideration of all the information in the SEIR, the Port Commission selects the Sims|Metal Lease, as described in the SEIR and SEIR Addendum. The proposed metal recycling facility would provide San Franciscans with increased opportunities to recycle metal from demolition projects and other sources that might otherwise be disposed of as solid waste, thereby helping to maintain or enhance the City's recycling objectives to divert 75% of its solid waste from landfill disposal by 2010 in an environmentally beneficial manner. In addition, the Sims|Metal Lease would meet other objectives, described below.

- Preserves the area as land base for activities compatible with maritime industry. The Port's Waterfront Plan encourages the preservation of land for industrial activities that are compatible with continued operation of the ship repair industry at San Francisco Drydock at Pier 70. The Sims|Metal Lease would continue industrial activities, with minimal adverse environmental impacts, in an area already utilized by other industrial users, located away from residential populations.

- Locate a metal recycling facility within an urban area to facilitate recycling. In the metal recycling industry, it is essential that transfer facilities be conveniently located within or near urban centers in order to intercept recyclable materials that otherwise would end up in a landfill. Sims|Metal has two ferrous processing facilities in the broader Bay Area (Richmond and Redwood City), both located too far away and are thus not convenient or feasible for collecting recyclable metals from San Francisco. The SimsMetal facility would achieve this but be sited so that it is buffered from residential uses. By locating a metal recycling transfer facility at Pier 70, the Sims|Metal lease provides increased recycling opportunities in the City.

- Provide employment in San Francisco. The location of the Sims|Metal recycling transfer facility in the southeast portion of San Francisco, will provide much needed employment to blue-collar union workers. It is Sims|Metal policy to hire and train local residents whenever possible.

- Increase utilization and economic productivity of Port land. The area that would be occupied under the Sims|Metal Lease is vacant. Locating the Sims|Metal facility at this site would provide an active presence in this portion of Pier 70 which is subject to a high level of vandalism and crime. Additional businesses sited in the area create more "eyes on the street" which would increase general security in and around Pier 70. The proposed SimsMetal Lease would generate much needed revenues to the Port from currently underutilized property. .

## B. Alternatives Rejected and Reasons for Rejection

### 1. Alternative A: No Project Alternative

The No Project Alternative is rejected because it would not allow any metal recycling transfer facility in the Southern Waterfront. As such, the No Project Alternative would not meet the Port or Project Sponsor objectives described above.

Given the relatively few industrial areas remaining in San Francisco and the high real estate costs, it is unclear whether Sims|Metal could relocate its transfer facility elsewhere in San Francisco. While Sims|Metal could locate a metal recycling transfer facility outside of San Francisco, it would not meet one of Sims|Metal's primary objectives to provide increased recycling opportunities to San Franciscans. The result would be longer trips for those seeking to recycle metal materials or foregoing recycling altogether and depositing the material in a landfill.

### 2. Alternative B: Reduced-Scale Alternative

Alternative B is the same as the SEIR Project, with the exception that various proposals and uses would be excluded such as the proposed Mission Valley Rock asphalt plant, the Coach USA bus storage, shipping-related components that would supply local construction aggregate sources, development of the Piers 90-94 backland as well as reduced cargo shipping at Piers 80 and 94-96. Alternative B does include the now abandoned WRT proposal and future general industrial uses at Pier 70. Because the Sims|Metal Lease could go forward under this alternative or the SEIR project, this alternative has no bearing on, or applicability to, the proposed Sims|Metal site or operation.

### 3. Alternative C: Residential Use Future Scenario Alternative

Alternative C is the same as the SEIR Project, except that it assumes residential use in the mix of uses assumed in the Pier 70 Opportunity Site. Because the Sims|Metal recycling transfer facility would be located outside the Pier 70 Opportunity Area site it has no bearing on or applicability to the proposed Sims|Metal site or operation.

## VI: SIGNIFICANT ADVERSE ENVIRONMENTAL IMPACTS

The SEIR Projects and Sims|Metal Lease include many aspects and features that reduce or eliminate environmental impacts that could be otherwise significant. Nonetheless, the uses analyzed in the SEIR would result in significant, unmitigable traffic congestion at selected local intersections. The SEIR Projects also cumulatively result in total Project emissions of criteria air pollutants on a region-wide basis that would exceed Bay Area Air Quality Management District project-specific thresholds and would therefore be considered significant and unmitigable, and would contribute to potentially significant cumulative air emissions from existing (unquantified) and possible future (unknown) sources in the greater site vicinity.

Specifically, traffic congestion at four intersections would not be mitigatable with the addition of traffic from both phases of the proposed SEIR projects in 2015. These intersections are:

- Mariposa Street/I-280 southbound on-ramp (LOS Fin a.m. peak hour; LOS E in p.m.peak hour);
- Mariposa Street/I-280 northbound off-ramp (LOS F in a.m. peak hour; LOS E in p.m. peak hour);
- Third/Mariposa Streets (LOS E in a.m. and p.m. peak hours) and
- Evans Avenue/Cesar Chavez Street (LOS E in a.m. peak hour).

Project-generated maximum daily emissions of reactive organic gases (ROG), nitrogen dioxide (Nox), and respirable particulates (PM-10) from all project components combined would exceed the significance threshold of 80 pounds per day in both 2003 and 2015. The significant threshold for annual emissions of 15 tons per year would also be exceeded for Rog and Nox in each year. Therefore, the SEIR projects would result in a significant effect with

regard to emissions of criteria pollutants. This significant impact would occur regionally, and would not be directly reflective of local conditions in the immediate vicinity of the project. (As discussed in the local air quality analysis on P. 89, localized emissions concentrations would not be significant). This significant regional impact cannot be reduced to a less-than-significant level because of the magnitude of the SEIR projects.

The Project would also contribute to a potentially significant cumulative regional impact on air quality because daily and annual volumes of criteria pollutants would exceed Bay Area Air Quality Management District (and SEIR) project–specific significance thresholds as described above. Locally, cumulative PM-10 and diesel particulate cannot be quantified because of the multitude of existing sources. Therefore, to be conservative, these emissions are deemed cumulatively significant, although the SEIR Project itself would not have a significant effect with regard to local concentrations of PM-10 or diesel particulate.

The significant, unavoidable impacts listed in the SEIR and recited above assume implementation by the Port and other City agencies of the mitigation measures recommended for adoption as set forth above, to reduce potentially significant impacts. The Port Commission has made a determination that these measures can and should be implemented and in so determining, has found that the measures are feasible and implementable through the SimsMetal Lease approval, existing Port programs implementing the Waterfront Land Use Plan, and normal operations of the Department of Parking and Traffic. In addition, the Port Commission has taken responsibility for securing funding and approvals to implement the Illinois Street Bridge, a mitigation measure identified in this SEIR.

However, to the extent that the mitigation measure within the jurisdiction of the Department of Parking and Traffic is not adopted, or the Illinois Street Rail and Truck Bridge cannot be fully funded or constructed by the Port, the following additional significant impacts could occur, depending on the nature of the mitigation measures that are not implemented: additional and increased traffic congestion impacts at the intersections of Third and Cargo Way (in 2003 and in 2015); Third and 25$^{th}$ Streets (in year 2015); Pennsylvania/I-280 SB on-ramp (in 2015); Third and Cesar Chavez Streets (in 2015); Illinois and Cesar Chavez Streets ( in 2015); and Amador Street and Cargo Way (in 2015); and air quality. There are no specific, feasible mitigation measures available other than those identified in the SEIR, to reduce these impacts to a level of insignificance.

For the reasons stated above, the Port Commission finds that the Sims|Metal Lease incorporates all feasible mitigation measures and has eliminated or substantially lessened all significant effects on the environment where feasible. The remaining effects listed above are found by the Port Commission to be acceptable due to the overriding considerations set forth below.

## VII: STATEMENT OF OVERRIDING CONSIDERATIONS

The Port Commission finds that the following social, economic, technological and other considerations and benefits warrant approval of the Sims|Metal Lease notwithstanding any remaining unavoidable or unmitigated effects to which it would contribute. The Commission

finds that each of the overriding considerations set forth below constitutes a separate and independent basis for finding that benefits of the Sims|Metal Lease outweigh the unavoidable adverse environmental effects, and is an overriding consideration that warrants approval of the Sims|Metal Lease. In addition, the Port Commission finds that the Alternatives and Mitigation Measures applicable to the Sims|Metal Lease that are either partially or totally rejected also are rejected for the following economic, social or other considerations, in and of themselves, in addition to the specific reasons discussed in Article V(A) above. These matters are supported by evidence in the record that includes, but is not limited to, the documents referenced in Article II.

1. The Sims|Metal Lease is an industrial use that is compatible with existing ongoing ship repair and industrial , and which will increase the Port revenues and the productivity of Port assets. The Port's Waterfront Plan and the City's Central Waterfront Plan encourage the preservation of land for maritime and industrial activities. The Sims|Metal Lease would continue industrial activities, with minimal adverse environmental impacts.

2. The area that would be occupied under the Sims|Metal Lease is vacant. Locating the Sims|Metal facility at this site would provide a much needed active presence in this portion of Pier 70 and would thereby increase security in an area that currently suffers significant vandalism and crime. New businesses in this area help the Port to clean up Port property, install improvements and create more "eyes on the street", all important factors to reduce crime and accelerated damage to Port facilities.

3. The Sims|Metal Lease would enhance San Franciscans recycling opportunities. In the metal recycling industry, it is essential that transfer facilities be conveniently located within or near urban centers in order to intercept recyclable materials that otherwise would end up in a landfill. Sims|Metal other processing and transfer facilities in the broader Bay Area are located too far away and are thus not convenient or feasible for collecting recyclable metals from San Francisco. The Sims|Metal Lease at Pier 70 would provide a convenient and feasible drop off location for such material.

4. The Sims|Metal Lease incorporates all appropriate environmental mitigations. Because of the mitigation measures that would be implemented under its lease, Sims|Metal's operation itself would not generate any significant adverse environmental effects.

5. Sims|Metal is a new business to San Francisco that would employ 4 to 6 workers from the southeast area of the City. It is Sims|Metal's policy to hire and train local residents whenever possible.

6. SimsMetal has operated its recycling facility in the City of Richmond for over 30 years. The Port has received numerous letters of support from the Mayor and Chief of Police of Richmond, the Santa Fe Neighborhood Council, as well as the Chamber of Commerce and Council of Industries. All of these parties credit SimsMetal as a responsible business that stays involved and interactive with the surrounding

community, and has maintained very positive relationships. The Port Commission focusses a great deal of effort on maintaining open lines of communication and cooperation with the waterfront community. Businesses such as SimsMetals that have a strong community relation track record are the types of entities that will foster mutual benefit and success for the Port and the community.

Planning/southernwaterfront/pier70/simsmetals/5-10-04 simsmetals ceqa findings

**EXHIBIT 1**

**SEIR MITIGATION MEASURES REQUIRED AS CONDITIONS OF THE SIMS|METAL LEASE**

***The following contains the full text of the Southern Waterfront Supplemental EIR (SEIR) mitigation measures, which, unless otherwise explained in the CEQA findings, are required as conditions of the Sims|Metal Lease (approved by Port Commission Resolution 04-43, May 25, 2004)***

## C. AIR QUALITY

**C.3** Consistent with the City's Clean Air Program (established by Ordinance 258-99, adopted October 15, 1999), it is City policy to "foster, promote, and encourage the use of low emission [alternative fuel vehicles] and [zero emission vehicles] by developing infrastructures to support the use of these vehicles." Under the ordinance, the City is to (1) assess the need for a network of natural gas fueling stations accessible to the public; (2) site and develop at least five such facilities, by public and/or private entities; (3) install 50 publicly accessible electric vehicle charging stations in City garages, lots, or other sites; (4) develop a plan for additional charging stations and related infrastructure; (5) buy and lease ultra-low and zero emission vehicles for City department use; (6) identify and convert diesel bus lines to electric service; (7) develop a plan to phase out older diesel buses; (8) develop a plan and incentives to encourage larger private vehicle fleets to convert their fleets to very low or zero emission vehicles; and (9) develop a car sharing program in high density neighborhoods.

Consistent with the City's Clean Air Program, the Port shall require that all tenants make a good faith effort to engage in operational practices sensitive to the environment and the neighboring community. In furtherance of this, the Port shall require that tenants operating a fleet of vehicles investigate the potential for use of low- or zero emission vehicles and implement measures to reduce vehicle emissions to the maximum feasible extent. Options may include, but not necessarily be limited to, the use of low-emission diesel fuel (including low-sulfur diesel); the use of catalytic particulate traps for diesel-powered engines that are currently under study by the California Air Resources Board; the use of other emerging technologies to reduce diesel particulate emissions; and use of electric vehicles. The Port shall also require that tenants operating diesel-powered stationary equipment investigate similar options. Tenants shall investigate retrofitting existing engines and purchase of new engines. The Port shall further require that tenants who work with independent trucking contractors encourage those contractors to make similar efforts, including, if reasonably feasible, providing such truckers with economic incentives to retrofit equipment or take other measures as may be necessary to use low-emission fuels. As an economic incentive to minimize diesel emissions from Port property, the Port shall contribute towards the incremental costs incurred by its tenants for Port-approved equipment and improvements in furtherance of this measure. Finally, the Port shall establish a schedule by which tenants described above shall report to the Port on progress in investigating reduced-emission engines.

**C.5** The Port shall require that project sponsors direct construction contractors to implement a dust abatement program to reduce the contribution of project construction to local PM-10 concentrations. Elements of this program, which is currently applied to all Port tenants, include the following:

- Water internal roadways and unpaved construction areas just prior to the morning and evening peak traffic periods (to limit the potential for major roadway traffic to entrain dust), limit speeds to 10 mph, and sweep paved internal roads after the evening peak period.

- In addition, water active sites (e.g., where demolition, excavation or other earth work is underway) at least twice per day. Increase the frequency of watering when wind speeds exceed 15 miles per hour. Suspend all excavating and grading operation when instantaneous gusts exceed 25 miles per hour.

- Replace ground cover in disturbed areas as quickly as possible.

- Enclose, cover, water twice daily, or apply soil binders to exposed stockpiles of sand, gravel, and dirt.

- Install gravel at construction equipment entrances to unpaved areas to prevent tracking of dirt and mud onto streets.

- Sweep paved access roads, parking areas, and construction staging areas, at the end of day (with water sweepers), and sweep adjacent City streets if any visible soil material is carried over to these streets.

- Cover all trucks hauling dirt, sand, soil, or other loose materials. Maintain at least six inches of freeboard between the top of the load and the top of the trailer.

- Sweep up dirt or debris spilled onto paved surfaces immediately to reduce resuspension of particulate matter through vehicle movement over these surfaces.

- Designate a person or persons to oversee the implementation of a comprehensive dust control program and to increase watering, as necessary.

- Maintain and operate construction equipment so as to minimize particulates from exhaust emissions. During construction, require contractors to operate trucks and equipment only when necessary. Equipment should be kept in good condition and well-tuned, to minimize exhaust emissions.

Ordinance 175-91, passed by the Board of Supervisors on May 6, 1991, requires that non-potable water be used for dust control activities. Therefore, the project sponsor shall require that the contractor(s) obtain reclaimed water from the Clean Water Program for this purpose.

No other feasible mitigation measures have been identified that would reduce the project's total regional emissions to a level below Bay Area Air Quality Management District thresholds, or eliminate the project's contribution to potentially significant cumulative impacts from all existing (unquantified) and future (unknown) emissions sources.

## D. HYDROLOGY

**D.1** For construction sites of less than five acres of disturbed area, the contractors shall be required to prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) similar to that required under the statewide General Permit for Storm Water Discharges Associated with Construction Activity. The SWPPP would include site-specific information to identify and evaluate sources of pollutants associated with industrial activities and to identify and implement site-specific best management practices to reduce or prevent pollutants associated with industrial activities in stormwater discharges. Best management practices may be non-structural (e.g., activity schedules, maintenance procedures, prohibitions of practices) or structural (e.g., treatment measures, runoff controls, overhead coverage). Elements of the SWPPP shall include the following:

- measures for erosion and sediment controls
- methods for construction waste handling and disposal, and
- post-construction erosion and sediment control requirements.

**D.2** To minimize the potential for water quality degradation from stormwater runoff, the Port shall require that all tenants and developers, including interim lessees such as the Industry Group members, implement source control Best Management Practices consistent with those identified in the Industrial / Commercial Storm Water Best Management Practices Handbook (Stormwater Quality Task Force, 1993). Measures shall include, but are not limited to, the following (some of which are proposed as part of one or more Industry Group components):

- prohibiting discharge of process water to storm drains or otherwise directly to the Bay or Islais Creek;
- separating stormwater from process water, such as concrete truck washout water and truck wash water, through the use of berms and other features, and ensuring that treated stormwater to be discharged to the Bay meets applicable permit and regulatory standards, including pH (acidity or akalinity);
- for Industry Group components that would use water in dust control, creation of settling basins or similar features that would allow sediment to be removed from water prior to reuse and/or discharge;
- daily street sweeping of surrounding streets and, for facilities that operate on unpaved surfaces, installation and operation of truck wheel-washing systems at aggregate-related plants;
- employing appropriate containment measures for fuel, asphalt cement, and other hazardous materials stored on-site, to capture potential spills (including at on-site fueling areas);
- installing and maintaining grease and sediment traps at vehicle maintenance and washing areas to prevent contaminated runoff from entering the storm drains or Bay.

## E. HAZARDS

E.1 Accidental Release of Hazardous Materials or Petroleum Products

In accordance with the Hazardous Materials Ordinance, the sponsor of each Industry Group or Port project component shall ensure that a Hazardous Materials Business Plan is prepared for each of the project components involving the use of petroleum products or hazardous materials. The plan would specify methods for handling and storage of these including containment, site layouts, and emergency response and notification procedures for a spill or release.

The project sponsor(s) shall ensure that a Spill Control and Countermeasure Plan is prepared for any project involving the aboveground storage of petroleum products. The plan would include requirements for appropriate spill containment or equipment to divert spills from sensitive areas, a discussion of facility-specific requirements for the storage system, inspections and a record keeping system, security for the system, and personnel training. The project sponsor(s) would also comply with the state requirement that above-ground storage tanks subject to federal regulations are registered with the Regional Water Quality Control Board.

## G. GEOLOGY, SOILS, AND SEISMICITY

**G.2** To minimize hazards to building occupants from non-structural damage, the Port should require all Port facilities and tenants to carry out the following measures at a minimum: heavy objects shall be attached to secure walls and floors, and light, loose objects shall be placed to minimize their potential to move or overturn; large storage containers shall not be loosely stacked, and those stored on shelves shall have appropriate restraints or other means to prevent them from tipping or sliding off the shelves.

Heavy objects like freezers, boilers, chillers, laboratory equipment, battery racks and electrical transformers, heavy storage cabinets, tanks, safes, oversize file cabinets, etc., shall be firmly secured to floors and walls to prevent their falling or sliding. All equipment using natural gas shall be anchored. Care shall be taken to avoid placement of such objects where they could topple or move and block exit doors. *(1997 WLUP FEIR Measure I-7b)*

**G.4** Non-structural interior elements (ceilings, partitions, light fixtures, HVAC, pipes, etc.) shall be designed to withstand strong ground shaking and remain intact. This would be accomplished, for example, by selecting lightweight materials and firmly securing them to structural elements of the building and by using flexible connections for pipes. *(1997 WLUP FEIR Measure I-7d)*

**G.5** Require the use of flexible utility connections and fasten water heaters to walls. Require the installation of automatic shut-off valves in all natural gas pipelines and provide similar emergency shut-off valves for other gas (oxygen and nitrogen) systems or as otherwise required by the San Francisco Fire Department or the Port fire marshal. Do not install automatic shut-off valves for water supplies. Require the posting of room/building layout diagrams that indicate the location of shut-off valves for natural gas. *(1997 WLUP FEIR Measure I-7e)*

**G.6** Require fire extinguishers in all rooms and hallways and adjacent to all exit doors (including stairwell exits), as required by the San Francisco Fire Code. Require that cabinets are not placed where they could overturn and block access to fire extinguishers. Require the training of all staff of offices, hotels, industrial facilities, restaurants and entertainment complexes in the use of fire extinguishers. *(1997 WLUP FEIR Measure I-7f)*

**G.9** The Port shall require tenants to design all facilities for storage of hazardous chemicals in containers, such as cabinets, shelves, and drawers, to minimize potential hazards in an earthquake, in accordance with Fire Department and/or Health Department requirements.

Storage facilities shall include safety lips to contain spills and to reduce the likelihood of contents falling. All shelves and cabinets shall be secured to a wall or ceiling. All cabinets and drawers should be provided with positive latches that would not open during earthquake motions and vibrations. Compressed gas cylinders, including empty ones, shall be secured to fixed features. Gas cylinders shall be secured at two locations along their vertical axis, one in the top one-third of the cylinder and another in the bottom third of the cylinder.

The Port shall require storage of hazardous chemicals in approved containers and separation of incompatible chemicals in separate storage areas. If chemical storage is vented by an electric fan, an alternative (emergency) means of ventilation shall be provided, which may be a mechanical (non-powered) vent. *(1997 WLUP FEIR Measure I-8b)*

Implementation of Measures G.9 and G.10 would reduce hazardous materials-related non-structural safety hazards of an earthquake to an acceptable level of risk.

---

REFERENCES – Mitigation Measures

Stormwater Quality Task Force, *Industrial/Commercial Best Management Practices Handbook*, prepared by Camp Dresser & McKee, et. al., March 1993.

Planning/southernwaterront/pier70simsmetals/5-17-04 dyo Exhibit1,Sims Req'd Mits

# EXHIBIT 2
# PORT OF SAN FRANCISCO – SIMS|METAL LEASE
# MITIGATION MEASURE MONITORING PROGRAM
***Exhibit to Sims|Metal Lease CEQA Findings, adopted by Port Commission Resolution 04-43, May 25, 2004***

| Mitigation Measure | Implementation Responsibility | Action Required | Mitigation Schedule | Monitoring/Reporting Responsibility | Status/Date Completed |
|---|---|---|---|---|---|
| **B. Transportation** | | | | | |
| **B.1** To mitigate 2015 conditions, monitor traffic level of service (LOS) conditions at the intersections listed below in Table 23. At such time as warranted by traffic conditions (i.e., a degradation of the p.m. peak-hour service level to an unacceptable LOS E or F), institute the identified improvements or implement another measure determined at that time to be adequate to mitigate the degradation in level of service.<br><br>Third/25th : Restripe the east- and westbound approaches to provide left-turn lanes; revise signal timing to provide protected east- and westbound left-turn phases. (2015 a.m. pk. hr. LOS would improve from D to C; 2015 p.m. pk. hr. LOS would improve from F to D)<br><br>Illinois/25th: Install traffic signal (2015 a.m. pk. hr LOS would improve from B (C ) to B; 2015 p.m. pk. hr. LOS would improve from F to A)<br><br>Pennsylvania/I-280 SB on-ramp: Install traffic signal (2015 a.m. pk. hr. LOS improves from B (C ) to B; 2015 p.m. pk. hr. LOS improves from LOS F to B)<br><br>Third/Cesar Chavez: Add a second northbound left-turn lane and an additional lane in each direction to the western approach on César Chávez Street. (This would require the acquisition of additional right-of-way on Third Street at the southeast corner of the intersection, where there is an existing building.) (2015 a.m. pk. hr. LOS improves from F to D; 2015 p.m. pk.hr LOS improves from F to D)<br><br>Illinois/Cesar Chavez: Install traffic signal; Restripe the northbound and southbound approaches to provide left-turn lanes and shared right-through lanes; Restripe the eastbound and westbound approaches to provide a shared left-through lane and a shared through-right lane. (2015 a.m. pk. hr LOS improves from F to D; 2015 p.m. pk. hr. LOS improves from F to B)<br><br>Amador/Cargo: Install traffic signal; Restripe the southbound Amador Way approach to provide a left-turn lane, a shared left-through lane, and a right-turn lane (2015 a.m. pk. hr. LOS improves from F to C; 2015 p.m. pk. hr. improves from F to B) | Dept. of Parking & Traffic (DPT), MUNI, Port | New signals at Illinois/25th Sts, Illinois/Cesar Chavez Sts, and the restriped eastbound and westbound lanes at Illinois/Cesar Chavez will be implemented as part of the MUNI Third Street Light Rail project. A new signal at Amador St/Cargo Way will be implemented by the Port as part of the Illinois Street Rail and Truck Bridge (if approved). For the rest of the mitigation improvements described, the Port Commission will recommend to DPT that these measures be implemented, if traffic conditions in the future reach the LOS cited in the SEIR. If traffic analysis determines that congestion levels are attributable to | When level of service is anticipated to degrade to an unacceptable level as a result of Port or other development project | Major Environmental Assessment (MEA) of the Planning Dept to notify DPT and project sponsors if environmental analysis for development projects will result in LOS E or F. | Signal and lane improvements, as described (or equivalent), have been implemented.<br><br>Diane Oshima: Status Update? |

| Mitigation Measure | Implementation Responsibility | Action Required | Mitigation Schedule | Monitoring/Reporting Responsibility | Status/Date Completed |
|---|---|---|---|---|---|
| | | Port development, Port may be required to contribute funding to implement mitigation measures. | | | |
| **B.4** The Port shall comply with requests from the Major Environmental Analysis section of the Planning Department to analyze intersection levels of service for existing and future conditions at intersections that may reasonably be expected to be affected by each future development project, and shall identify and implement appropriate mitigation measures.<br><br>Any such transportation analysis will be coordinated with monitoring of the Congestion Management Program (CMP) network, conducted biennially by the San Francisco County Transportation Authority. Within the WLUP Project Area, a number of intersecting streets ( César Chávez, and Evans west of Third) are included on the CMP network. The Authority would conduct monitoring activities along these facilities. Degradation of the Level of Service for one or more individual intersections within an arterial segment, to Level of Service "F" or to below some other designation deemed to be acceptable, could also degrade the segment Level of Service. The degree of impact to the segment may not be sufficient for the Transportation Authority to identify a "deficiency" under the CMP process (Level of Service "F" for the entire segment), even though the Port or City could impose mitigation requirements for developers of projects that would have a significant impact on individual intersections. Based on the transportation analysis for this EIR, cumulative development along the Waterfront might cause degradation of a particular segment of the CMP network to fall to "F," thereby triggering a finding of deficiency requiring formulation of a Deficiency Plan, and implementation of that Plan under the CMP processes identified by the Transportation Authority. The Authority could, in this circumstance, identify the Port as the lead agency for development of the Deficiency Plan and for implementation of any corrective measures, which would result in the Port taking direct responsibility or requiring sponsors of specific development projects that contribute to cumulative congestion to participate in improvement and mitigation measures. *(also cited in 1997 WLUP FEIR, Measure D.4)* | Planning Dept. Major Environmental Assessment (MEA) and Port | MEA requests traffic analysis on specified intersections in project area | During environmental analysis, prior to project approval | MEA reports findings to Port, project sponsor, including any additional proposed mitigation measures | When traffic analysis and feasible mitigation measures are implemented. |
| **C. Air Quality** | | | | | |
| **C.3** Consistent with the City's Clean Air Program, the Port shall require that all tenants make a good faith effort to engage in operational practices sensitive to the environment and the neighboring | Sims\|Metal | Sims\|Metal to provide an annual report to the Port, | Monthly reports | Sims\|Metal submits reports to Port | Year 2006, when Federal diesel emission regulations become |

| Mitigation Measure | Implementation Responsibility | Action Required | Mitigation Schedule | Monitoring/Reporting Responsibility | Status/Date Completed |
|---|---|---|---|---|---|
| community. In furtherance of this, the Port shall require that tenants operating a fleet of vehicles investigate the potential for use of low- or zero emission vehicles and implement measures to reduce vehicle emissions to the maximum feasible extent. Options may include, but not necessarily be limited to, the use of low-emission diesel fuel (including low-sulfur diesel); the use of catalytic particulate traps for diesel-powered engines that are currently under study by the California Air Resources Board; the use of other emerging technologies to reduce diesel particulate emissions; and use of electric vehicles. The Port shall also require that tenants operating diesel-powered stationary equipment investigate similar options. Tenants shall investigate retrofitting existing engines and purchase of new engines. The Port shall further require that tenants who work with independent trucking contractors encourage those contractors to make similar efforts, including, if reasonably feasible, providing such truckers with economic incentives to retrofit equipment or take other measures as may be necessary to use low-emission fuels. As an economic incentive to minimize diesel emissions from Port property, the Port shall contribute towards the incremental costs incurred by its tenants for Port-approved equipment and improvements in furtherance of this measure. Finally, the Port shall establish a schedule by which tenants described above shall report to the Port on progress in investigating reduced-emission engines. | | including description of good faith efforts or measures to reduce diesel emissions from Sims\|Metal vehicles, or outside truckers with whom they do business. | | | effective. |
| **C.5** The Port shall require that project sponsors direct construction contractors to implement a dust abatement program to reduce the contribution of project construction to local PM-10 concentrations. Elements of this program, which is currently applied to all Port tenants, include the following:<br>- Water internal roadways and unpaved construction areas just prior to the morning and evening peak traffic periods (to limit the potential for major roadway traffic to entrain dust), limit speeds to 10 mph, and sweep paved internal roads after the evening peak period.<br>- In addition, water active sites (e.g., where demolition, excavation or other earth work is underway) at least twice per day. Increase the frequency of watering when wind speeds exceed 15 miles per hour. Suspend all excavating and grading operation when instantaneous gusts exceed 25 miles per hour.<br>- Replace ground cover in disturbed areas as quickly as possible.<br>- Enclose, cover, water twice daily, or apply soil binders to exposed stockpiles of sand, gravel, and dirt.<br>- Install gravel at construction equipment entrances to unpaved areas to prevent tracking of dirt and mud onto streets. | Sims\|Metal and Port | Implement described dust control measures | During construction | Sims\|Metal will participate in Port's dust mitigation monitoring program, including providing funding for independent site inspections and monitoring to ensure compliance with mitigation measures. | Construction mitigation measures and monitoring will be completed when construction is completed. |

| Mitigation Measure | Implementation Responsibility | Action Required | Mitigation Schedule | Monitoring/Reporting Responsibility | Status/Date Completed |
|---|---|---|---|---|---|
| - Cover all trucks hauling dirt, sand, soil, or other loose materials. Maintain at least six inches of freeboard between the top of the load and the top of the trailer.<br>- Sweep up dirt or debris spilled onto paved surfaces immediately to reduce resuspension of particulate matter through vehicle movement over these surfaces.<br>- Designate a person or persons to oversee the implementation of a comprehensive dust control program and to increase watering, as necessary.<br>- Maintain and operate construction equipment so as to minimize particulates from exhaust emissions. During construction, require contractors to operate trucks and equipment only when necessary. Equipment should be kept in good condition and well-tuned, to minimize exhaust emissions.<br>- Ordinance 175-91, passed by the Board of Supervisors on May 6, 1991, requires that non-potable water be used for dust control activities. Therefore, the project sponsor shall require that the contractor(s) obtain reclaimed water from the Clean Water Program for this purpose. | | | | | |
| **D. Hydrology** | | | | | |
| **D.1** For construction sites of less than five acres of disturbed area, the contractors shall be required to prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) similar to that required under the statewide General Permit for Storm Water Discharges Associated with Construction Activity. The SWPPP would include site-specific information to identify and evaluate sources of pollutants associated with industrial activities and to identify and implement site-specific best management practices to reduce or prevent pollutants associated with industrial activities in stormwater discharges. Best management practices may be non-structural (e.g., activity schedules, maintenance procedures, prohibitions of practices) or structural (e.g., treatment measures, runoff controls, overhead coverage). Elements of the SWPPP shall include the following:<br>- measures for erosion and sediment controls<br>- methods for construction waste handling and disposal, and post-construction erosion and sediment control requirements. | Sims\|Metal and Port | Sims\|Metal prepares a construction phase SWPPP, and submits for review by Port and/or a consultant hired by Port to produce a Southern Waterfront master stormwater plan. | SWPPP review and sign-off by Port and/or Southern Waterfront stormwater consultant prior to grading or site preparation of the transfer facility | Port | Upon Port confirmation that transfer facility has met all required standards/criteria in the SWPPP.<br><br>Monitoring to ensure implementation of required SWPPP stormwater measures would continue through the term of the lease. |
| **D.2** To minimize the potential for water quality degradation from stormwater runoff, the Port shall require that Sims\|Metal implement source control Best Management Practices consistent with those identified in the Industrial/Commercial Storm Water Best Management Practices Handbook (Stormwater Quality Task Force, | Sims\|Metal | Sims\|Metal implement source control Best Management Practices, in | SWPPP review and sign-off by Port and Southern Waterfront stormwater consultant prior to | Port | Upon Port confirmation that transfer facility has met all required standards/criteria in the SWPPP. |

| Mitigation Measure | Implementation Responsibility | Action Required | Mitigation Schedule | Monitoring/Reporting Responsibility | Status/Date Completed |
|---|---|---|---|---|---|
| 1993). Measures shall include, but are not limited to, the following:<br>• prohibiting discharge of process water to storm drains or otherwise directly to the Bay or Islais Creek<br>• for businesses that use water in dust control, creation of settling basins or similar features that would allow sediment to be removed from water prior to reuse and/or discharge<br>• daily street sweeping of surrounding streets<br>• employing appropriate containment measures for fuel, lubricants and other hazardous materials stored on-site, to capture potential spills | | concert with SWPPP | opening for business | | Monitoring to ensure implementation of required SWPPP stormwater measures would continue through the term of the lease. |
| **E. Hazards** | | | | | |
| **E.1** In accordance with the Hazardous Materials Ordinance, Sims\|Metal shall ensure that a Hazardous Materials Business Plan is prepared for project components involving the use of petroleum products or hazardous materials. The plan would specify methods for handling and storage of these including containment, site layouts, and emergency response and notification procedures for a spill or release. | Sims\|Metal and Port | Sims\|Metal prepares Hazardous Materials Business Plan for any use of petroleum products or hazardous materials | Plan to be completed and on file with the Port prior to opening for business | Port | Once Plan is determined by the Port to be complete and on file, prior to opening for business. |
| **E.3** The Port shall contract for or require that Port tenant(s) contract for disposal of any portion of the soil pile on the Bode and Mission Valley Rock sites at Pier 92 that cannot be reused for construction projects in accordance with applicable waste disposal regulations. Such reuse would also require approval of the San Francisco Department of Public Health. | Port | Port will treat, reuse or remove the soil pile in accordance with all applicable environmental laws and regulations. | To be determined upon completion of assessment of soil piles by San Francisco Dept, of Public Health, in consultation with CA Dept. of Toxic Substances Control | Port to respond pursuant to direction of Dept. of Public Health | This measure was implemented in 2003 resulting in the removal and disposal of the soil, in accordance with all applicable environmental laws and regulations. |
| **G. Geology, Soils, and Seismicity** | | | | | |
| **G.2** To minimize hazards to building occupants from non-structural damage, the Port shall require all tenants to carry out the following measures at a minimum: heavy objects shall be attached to secure walls and floors, and light, loose objects shall be placed to minimize their potential to move or overturn; large storage containers shall not be loosely stacked, and those stored on shelves shall have appropriate restraints or other means to prevent them from tipping or sliding off the shelves.<br><br>Heavy objects like freezers, boilers, chillers, laboratory equipment, battery racks and electrical transformers, heavy storage cabinets, tanks, safes, oversize file cabinets, etc., shall be firmly secured to floors and walls to prevent their falling or sliding. All equipment | Sims\|Metal | Sims\|Metal to submit report, with photos, documenting that items/equipment have been secured. | Prior to opening for business | Sims\|Metal to submit report annually, starting on first anniversary of commencement of operations, with photos, documenting that items/equipment have been secured. Alternatively, Port property manager or safety personnel may inspect premises. | Ongoing requirement |

| Mitigation Measure | Implementation Responsibility | Action Required | Mitigation Schedule | Monitoring/Reporting Responsibility | Status/Date Completed |
|---|---|---|---|---|---|
| using natural gas shall be anchored. Care shall be taken to avoid placement of such objects where they could topple or move and block exit doors. *(1997 FEIR Measure I-7b)* | | | | | |
| **G.4** Non-structural interior elements (ceilings, partitions, light fixtures, HVAC, pipes, etc.) shall be designed to withstand strong ground shaking and remain intact. This would be accomplished, for example, by selecting lightweight materials and firmly securing them to structural elements of the building and by using flexible connections for pipes. *(1997 FEIR Measure I-7d)* | Sims\|Metal | Sims\|Metal to include such specifications in their building permit plans submitted to the Port. | Prior to completion of construction of new facilities | Sims\|Metal to provide proof of compliance in a report to the Port leasing or property manager regarding all mitigation conditions that are required to be completed prior to opening for business. | Port leasing or property manager receives completed report confirming compliance with applicable mitigation conditions, prior to opening for business. |
| **G.5** Require the use of flexible utility connections and fasten water heaters to walls. Require the installation of automatic shut-off valves in all natural gas pipelines and provide similar emergency shut-off valves for other gas (oxygen and nitrogen) systems or as otherwise required by the San Francisco Fire Department or the Port fire marshal. Do not install automatic shut-off valves for water supplies. Require the posting of room/building layout diagrams that indicate the location of shut-off valves for natural gas. *(1997 FEIR Measure I-7e)* | Sims\|Metal | Sims\|Metal to include such specifications in their building permit plans submitted to the Port. | Prior to completion of construction of new facilities | Sims\|Metal to provide proof of compliance in a report to the Port leasing or property manager regarding all mitigation conditions that are required to be completed prior to opening for business. | Port leasing or property manager receives completed report confirming compliance with applicable mitigation conditions, prior to opening for business. |
| **G.6** Require fire extinguishers adjacent to all exit doors (including stairwell exits), as required by the San Francisco Fire Code. Require that cabinets are not placed where they could overturn and block access to fire extinguishers. Require the training of all staff in the use of fire extinguishers. *(1997 FEIR Measure I-7f)* | Sims\|Metal | Sims\|Metal to include such specifications in their building permit plans submitted to the Port. | Prior to completion of construction of new facilities | Sims\|Metal to provide proof of compliance in a report to the Port leasing or property manager regarding all mitigation conditions that are required to be completed prior to opening for business. | Port leasing or property manager receives completed report confirming compliance with applicable mitigation conditions, prior to opening for business. |
| **G.9** The Port shall require tenants to design all facilities for storage of hazardous chemicals in containers, such as cabinets, shelves, and drawers, to minimize potential hazards in an earthquake, in accordance with Fire Department and/or Health Department requirements.<br><br>Storage facilities shall include safety lips to contain spills and to reduce the likelihood of contents falling. All shelves and cabinets shall be secured to a wall or ceiling. All cabinets and drawers shall be provided with positive latches that would not open during earthquake motions and vibrations. Compressed gas cylinders, including empty ones, shall be secured to fixed features. Gas cylinders shall be secured at two locations along their vertical axis, one in the top one-third of the cylinder and another in the bottom third of the cylinder. | Sims\|Metal | Sims\|Metal to submit report, with photos, documenting that items/equipment have been secured | Prior to completion of construction of new facilities | Sims\|Metalt to provide proof of compliance in a report to the Port leasing or property manager regarding all mitigation conditions that are required to be completed prior to opening for business. | Port leasing or property manager receives completed report confirming compliance with applicable mitigation conditions, prior to opening for business. |

| Mitigation Measure | Implementation Responsibility | Action Required | Mitigation Schedule | Monitoring/Reporting Responsibility | Status/Date Completed |
|---|---|---|---|---|---|
| The Port shall require storage of hazardous chemicals in approved containers and separation of incompatible chemicals in separate storage areas. *(1997 FEIR Measure I-8b)* | | | | | |
| **G.12** The Port shall work in cooperation with the City's Office of Emergency Services (OES), Fire Department and Police Department to plan routes of alternative emergency access to development sites and hospitals following a catastrophe that could affect emergency routes. *(1997 FEIR Measure 1-9c)* | Port | Port works with OES, Fire and Police Depts. to plan emergency access routing | Ongoing | OES | Ongoing |
| **G.13** An inspection schedule shall be developed and followed for regular inspection and evaluation of the condition of the piers. In conjunction with the inspection schedule, a maintenance and repair schedule shall be developed and implemented, coordinated with the Port's Capital Plan. *(1997 FEIR Measure I-10a)* | Port | Conduct inspections and establish maintenance and repair schedule | Regular inspections; repair per schedule | Port | Inspection and repairs continue on an ongoing basis |

PORT OF SAN FRANCISCO

**MEMORANDUM**

May 19, 2004

**TO:** MEMBERS, PORT COMMISSION
Hon. Wilfred Hsu, President
Hon. Michael G. Hardeman, Vice President
Hon. Susan Bierman
Hon. Kimberly Brandon

**FROM:** Monique A. Moyer
Executive Director M. Moyer

**SUBJECT:** Approval of 2004-2005 Executive Director Salary

**DIRECTOR'S RECOMMENDATION:** APPROVE THE 2004-2005 COMPENSATION FOR THE EXECUTIVE DIRECTOR

---

Charter Section B3.582 grants the Port Commission the exclusive authority to set the compensation of the Port Director. The Charter provides that the Director's compensation shall not exceed the prevailing salaries paid to those holding similar positions in comparable maritime employment.

Staff conducted a survey of the salaries to Port Directors in the seven major West Coast ports. Of the seven seaports surveyed, three have authority over both the seaport and the airport. The remaining four ports have jurisdiction over the seaport only. For the latter group, the average annual salary is $210,515.

As has been its practice, staff also surveyed the salaries paid to the directors of three similar enterprise departments of the City and County of San Francisco, including the Airport, Public Utilities Commission and the Department of Transportation. The average salary of those directors is $237,408.

Ms. Moyer was appointed to the position of Port Executive Director on May 6, 2004. She has requested a salary of $200,000 annually beginning July 1, 2004. The requested salary conforms to the Charter limitation cited above.

The Port Commission's past practice has been to set the benefits and working conditions of the Port Director in accordance with the benefits and working conditions provided in the collective bargaining agreement between the City and County of San Francisco and the Management Executives Association. It is recommended that this practice continue in Fiscal Year 2004-2005.

Prepared by: Kathy Mallegni, Assistant Deputy Director, HR

This Print Covers Calendar Item No. 5B

**PORT COMMISSION**

**CITY AND COUNTY OF SAN FRANCISCO**

**RESOLUTION NO. 04-44**

WHEREAS, section B3.581(h) of the Charter grants the Port Commission the exclusive authority to set the compensation (salary and benefits) of the Port Executive Director; and

WHEREAS, section B3.582(h) of the Charter provides that the compensation of the Port Director shall not exceed prevailing salaries paid to those holding similar positions in comparable maritime employment; and

WHEREAS, a survey of salaries paid to Port Directors in the major West Coast seaports indicated that the average compensation is $210,515; and

WHEREAS, a survey of City department heads in similar enterprise departments indicated that the average salary is $237,408; and

WHEREAS, it has been the practice of the Port Commission to establish benefits and working conditions for the Port Director in accordance with the benefits and working conditions provided in the collective bargaining agreement between the City and the Municipal Executives Association; now, therefore be it

RESOLVED, that the annual compensation for the Port Executive Director for Fiscal Year 2004-2005 be set at $200,000; and, be it further

RESOLVED, that the benefits and working conditions provided to the Port Executive Director in Fiscal Year 2004-2005 will be the same as those provided to employees represented by the Municipal Executives Association in Fiscal Year 2004-2005.

***I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of May 25,2004.***

_____

Secretary

# PORT DIRECTOR SALARY SURVEY
## APRIL 2004

| PORT | SEA/AIR | CURRENT SALARY | EFFECTIVE DATE | OPERATING | EMPLOYEES | TOTAL GROSS REVENUE |
|---|---|---|---|---|---|---|
| Los Angeles | Sea | $ 264,884 | 6/3/04 | No | 678 | $ 289,853,000 |
| Long Beach | Sea | $ 194,177 | 7/1/01 | No | 338 | $ 223,998,604 |
| Oakland | Sea/Air | $ 247,800 | 6/22/02 | No | 681 | $ 208,045,000 |
| Portland[1] | Sea/Air | $ 226,012 | 12/11/03 | Yes | 810 | $ 225,000,000 |
| San Diego | Sea | $ 208,000 | 9/19/03 | Yes | 615 | $ 179,550,407 |
| Seattle | Sea/Air | $ 262,918 | 9/14/03 | Yes | 1500 | $ 421,126,000 |
| Stockton[1] | Sea | $ 175,000 | 7/1/03 | 20% Oper | 90 | $ 22,916,051 |
| Total | | | | | | |
| Average-All Ports | | $ 225,542 | | | | |
| Average-Seaport only | | $ 210,515 | | | | |
| **San Francisco** | **Sea** | **Range:** | 7/1/03 | No | 230 | $ 53,739,404 |
| | | **153,192 -- 186,212** | | | | |

[1] In addition to salary, received performance bonuses in 2003 (Stockton = $30,000; Portland = $10,762)

| CITY AND COUNTY OF SAN FRANCISCO DEPARTMENT HEADS | CURRENT SALARY | EFFECTIVE DATE | EMPLOYEES |
|---|---|---|---|
| Director, PUC | 216,112.00 | 7/1/03 | 965 |
| Director, Airport | 216,112.00 | 7/1/03 | 1468 |
| Gen Mgr, MUNI | 280,000.00 | 7/1/03 | 4457 |
| | | | |
| Average | 237,408.00 | | |
| **Port Director** | **186,212.00** | **7/1/03** | 230 |
| | | | |

PORT OF SAN FRANCISCO

**MEMORANDUM**

May 21, 2004

**TO:** MEMBERS, PORT COMMISSION
Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Sue Bierman
Hon. Kimberly Brandon

**FROM:** Monique Moyer
Executive Director M. Moyer

**SUBJECT:** Revision to the Port's Fiscal Year 2004/05 Operating Budget Submittal

**DIRECTOR'S RECOMMENDATION:** Approve Revisions to Annual Operating and Capital Budget for FY 2004/05

At the February 10, 2004 meeting, the Port Commission approved the proposed FY 2004/05 Operating and Capital Budget. Staff subsequently submitted this proposed budget to the Mayor's Office for their review and approval. During this process changes were made to the budget based on Staff's evaluation of the Port's current and anticipated financial condition. As described below, the Port's annual revenues are inadequate to cover the Port's operating expenses. This condition has existed for some time now. The Port has relied on fund balances to cover annual capital costs including dredging. This practice cannot continue indefinitely as the Port will ultimately expend its fund balance leaving it with insufficient funding to maintain its operations. To begin to address this structural deficit, Staff proposes several reductions listed in Table 1 on the following page. The Mayor's Office has reviewed and approved these changes. The Mayor's Office has also inputted changes of their own. We are now bringing this Revised Version of the FY 2004/05 Operating Budget before you for your approval.

The revised proposed Fiscal Year 2004/05 Operating and Capital Budget is summarized as follows:

| | FY 04/05 Commission Approved | FY 04/05 Revised | Increase/ (Decrease) | Percent |
|---|---|---|---|---|
| Revenue | $52,235,300 | $52,171,300 | ($64,000) | -0.12% |
| Total Port Expense | 59,699,027 | 57,183,952 | (2,515,075) | -4.13% |
| Surplus/(Deficit) | (7,463,727) | (5,012,652) | 2,451,075 | 32.84% |
| Drawdown from fund Balance | $7,463,727 | 5,012,652 | (2,451,0175) | -32.84% |

This Print Covers Calendar Item No. **5C**

The budget changes are summarized in greater detail in Table 1 below. The most significant increase in cost pertains to the Fire Department's work-order for the Fire Boat of $230,538 that the Mayor's Office proposed. The most significant decreases in the budget are (1) a $750,512 decrease for salary and fringe benefits, (2) a $1 million reduction to the annual dredging budget to be offset with current year savings from dredging, (3) a credit to the Port from previous fiscal year's Citywide Overhead overcharges, (4) a reduction to telephone services of $60,000, (5) a reduction to Workers Compensation of $34,000, and (6) a reduction of $81,340 to the Port's work-order to City Planning.

**Table 1**

| | FY 04/05 Commission Approved | FY 04/05 Revised | Increase/ (Decrease) | Percent |
|---|---|---|---|---|
| Salaries & Benefits | $22,105,806 | $21,355,294 | ($750,512) | -3.40% |
| City-wide Overhead | 550,000 | (262,682) | (812,682) | -147.76% |
| Other Current Expenses | 6,876,966 | 6,875,966 | (1,000) | -0.01% |
| Materials & Supplies | 1,593,461 | 1,593,461 | 0 | 0 |
| Fixed Charges | 1,005,825 | 1,005,825 | 0 | 0 |
| Capital Outlay | 249,300 | 249,300 | 0 | 0 |
| Facilities Maintenance | 1,155,400 | 1,186,800 | 31,400 | 2.72% |
| Debt Service | 6,133,525 | 6,133,525 | 0 | 0 |
| Insurance | 2,219,600 | 2,219,600 | 0 | 0 |
| City Attorney | 2,495,000 | 2,495,000 | 0 | 0 |
| Fire Protection | 1,900,000 | 2,130,538 | 230,538 | 12.13% |
| Workers Comp. | 1,200,000 | 1,200,000 | 0 | 0 |
| Light, Heat & Power | 1,368,000 | 1,368,000 | 0 | 0 |
| Revenue Transfer Out/Recovery | 270,125 | 287,348 | | 0 |
| All Other | 3,111,842 | 2,946,800 | (165,042) | -5.3% |
| Total Operating Budget | $52,234,850 | $50,784,775 | ($1,450,075) | -2.78% |
| Dredging | 3,065,000 | 2,000,000 | (1,065,000) | -32.6% |
| Other Capital Projects | 4,399,177 | 4,399,177 | 0 | 0 |
| Total Port Budget | $59,699,027 | $57,183,952 | ($2,515,075) | -4.21% |

**Overview of the Financial Condition of the Port**

The Port's FY 2003-04 budget has a budgeted surplus of $127,519 excluding $8.6 million in capital projects that the Port covered through its fund balance. In FY 2003-04, the Port will pay a settlement judgement to F. Alioto Company, Inc. ("Alioto") of $1.16 million from its fund balance with several million more due to Alioto in subsequent fiscal years. In short, the Port outspends its annual earnings by a significant margin. If this practice continues unchecked, the Port will rapidly expend its fund balance on capital projects and various unanticipated expenses including litigated judgements without a means to fund future dredging, maintenance or capital projects.

The Port's FY 2004-05 budget as adopted by the Port Commission in February draws down the Port's fund balance to $13 million by June 30, 2005. The Port should have a minimum of $10 million as a budgeted reserve for operating and capital emergencies including litigation. The result is that the Port would have only $3 million remaining to pay for annual dredging (typically $3 million per annum), the Special Area Plan payment (typically $2.2 million per annum), equipment and other recurring capital needs. Undoubtedly, the Port will need to reduce spending or increase revenues in FY 2005-06 to meet these needs. If the Port's budget continues to increase at the same rate without significant improvement in revenues, by FY 2006-07, the Port may not have any funds for dredging or other capital projects without dramatically spending down its operating reserve. Therefore, I propose the Port Commission approve a reduced budget to begin generating annual net revenue to allow the Port to: (1) retain at least a 20% operating reserve (approximately $10 million), (2) continue funding dredging and the Special Area Plan payments annually, and (3) address its back-log of capital and equipment repairs and improvements (estimated between $200 to $700 million).

During the next six months, Staff will review other opportunities to further reduce the Port's budget and/or increase revenues in order to make the Port more financially solvent and fund much needed capital repairs and improvements.

Prepared by: Tina Olson

**PORT COMMISSION**
**CITY AND COUNTY OF SAN FRANCISCO**

**RESOLUTION NO. 04-45**

WHEREAS, Under Charter Section B3.581, the Port Commission has the exclusive power to expend all funds necessary to carrying out its power and duty to operate and control the port areas of San Francisco; and

WHEREAS, pursuant to that power, Port staff developed a Fiscal Year 2004/05 operating budget; and

WHEREAS, this operating budget, which included projected revenues of $52,235,300 and projected expenses of $59,699,027, was approved by the Commission by Resolution No. 03-07 at its February 10, 2004 meeting; and

WHEREAS, Port staff submitted this budget to the Mayor's Office for their approval; and

WHEREAS, in its Resolution No. 03-07 the Commission authorized the Executive Director to make non-material changes to the operating budget as necessary; and

WHEREAS, the operating budget that was approved by the Mayor contains material changes; and

WHEREAS, the revised operating budget that was approved by the Mayor has $57,183,952 in funding for the Port's operating and capital expenses; and

WHEREAS, the revised operating budget includes projected revenues of $52,171,300;

WHEREAS, the revised operating budget will draw down $5,012,652 from the Port's fund balance to cover capital expenses; now, therefore, be it

RESOLVED, that the Port Commission hereby approves the revised Fiscal Year 2004/05 operating budget as approved by the Mayor.

***I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of May 25, 2004.***

_____
Secretary

PORT OF SAN FRANCISCO

**MEMORANDUM**

MAY 19, 2004

**TO:** MEMBERS, PORT COMMISSION
Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Kimberly Brandon
Hon. Sue Bierman

**FROM:** Monique Moyer
Executive Director

**SUBJECT:** Request for Supplemental Appropriation authorizing expenditure of $9,998,139 to provide additional funding necessary to issue a notice to proceed to Shimmick Construction for Phase II and Alternates 3, 4 and 5 of Contract No. 2680 for design-build services for the Illinois Street Bridge.

**DIRECTOR'S RECOMMENDATION**: AUTHORIZE THE EXECUTIVE DIRECTOR TO REQUEST A SUPPLEMENTAL APPROPRIATION TO PROVIDE ADDITIONAL FUNDING NECESSARY TO ISSUE A NOTICE TO PROCEED TO SHIMMICK CONSTRUCTION FOR PHASE II AND FOR ALTERNATES 3, 4 AND 5 OF CONTRACT NO. 2680 FOR DESIGN-BUILD SERVICES FOR THE ILLINOIS STREET BRIDGE

**EXECUTIVE SUMMARY**

On November 12, 2003, the Commission authorized award of Contract No. 2680, "Illinois Street Intermodal Bridge Design Build," for design-build services to Shimmick Construction Company, Inc., ("Shimmick") the lowest responsive and responsible bidder to design and construct the Illinois Street Intermodal Bridge ("Bridge") over Islais Creek, the Bridge approaches on the north and south banks, and the rail track connection to the Pier 80 cargo terminal. The Bridge will be constructed across Islais Creek one block east of the existing Levon Hagoop Nishkian drawbridge on Third Street. The Bridge will extend Illinois Street from the north side of the Creek, adjacent to the Pier 80 cargo terminal, to Pier 90 on the south side of the Creek. Construction of this Bridge will provide replacement freight rail service to Pier 80 previously accessed via the Potrero Way at 16th Street. Additional enhancements to the bridge include 2-way truck/vehicular traffic across the Bridge, opening of the Bridge for watercraft in the creek, and bicycle and pedestrian access across the Bridge.

The current estimated total project cost is $22.5 million, of which $6,820,500 has been appropriated and secured, and $2,000,000 is forthcoming. The Executive Director requests authorization to seek a supplemental appropriation in the amount of $9,998,139 of which $3,581,080 is discretionary funding

This Print Covers Calendar Item No. **6A**

and $6,417,059 is non-discretionary funding. The supplemental appropriation will fund Phase II construction portion of Contract No. 2680 and Alternates 3 though 5. The supplemental request is required to ensure that the Port locks in Shimmick's bid prices and to ensure that the project is commenced and completed within the time constraints imposed by the non-discretionary funding sources. Delays in certifying Phase II and the alternates will result in an escalation of bid prices and the potential loss of $12,401,059 in non-discretionary funds for this project. An estimated project cost of $3,637,570 will remain unfunded after this supplemental appropriation request is approved, but Staff have identified $6,250,000 in potential funding.

This item is also presented in accordance with the Commission's request of May 11, 2004 to review the project and budget.

**PROJECT ORIGIN**

The Bridge was originally identified as part of the Port's overall plans in 1985 to modernize its container handling facilities along the southern waterfront in the area currently known as Pier 80 and Piers 94-96[1]. The Environmental Impact Report ("EIR"), certified on January 23, 1986, recommended the construction of a drawbridge based on consultation with the U.S. Coast Guard, in consideration of the impacts of closing the western portion of Islais Creek (designated a navigable waterway), and the relative costs of different types of bridges. The estimated cost of the Bridge in 1985 was $4 million, with plans to finance it from future Port revenues or other sources of funding.

In the years since 1985, the Bridge evolved from a drawbridge to a fixed bridge and back to a drawbridge. Based on available information, Exhibit I summarizes by year the type of bridge that was conceived and the estimated cost to design and construct it as the concept evolved.

**PROJECT NEED AND BENEFIT**

The project need and benefit has not deviated since the time it was originally identified in 1985. This new Bridge will provide efficient, direct freight rail access, that is currently lacking, to the Pier 80 cargo terminal, as well as provide an intra-terminal transportation connection to the southern cargo terminals at Piers 90-96, south of the creek. The Bridge design, however, will provide additional benefits to the public by providing bicycle and pedestrian access across it. Additionally the bridge will generate larger, City-wide benefits by relieving traffic congestion projected to increase in the Third Street corridor and Third Street/Cargo Way intersection.

**PORT COMMISSION MEETINGS AND APPROVALS TO DATE**

Commission meetings held specifically on this project are summarized below:

- On October 26, 1999 (Commission Resolution No. 99-84), the Port Commission adopted the Resolution of Local Support for the State Transportation Improvement Program ("STIP") for the $4 million funding application that was approved by the San Francisco County Transportation Authority ("SFCTA") on September 27, 1999.
- On February 12, 2002, the Port Commission held a public hearing to receive comments on the project.

[1] "San Francisco Container Terminal Modernization, Final Environmental Impact Report, 85.123E", State Clearing House No. 85062513, Certification Date: January 23, 1986.

- On December 17, 2002 (Commission Resolution No. 02-61), the Port Commission adopted the California Environmental Quality Act ("CEQA") findings for this project, and authorized Port Staff to advertise and issue a stipend for design build services to design and construct the Bridge.
- On May 27, 2003, Port Staff provided a status update to the Port Commission on the selection process for design build services.
- On November 18, 2003 (Commission Resolution No. 03-70), the Port Commission authorized award of Contract No. 2680 for design build services to Shimmick.

**SCOPE OF WORK**

Due to the complex funding for this project, Contract No. 2680 has been structured to allow for the design and construction to be completed in a phased manner to match available funds. Table 1 contains a description of the base bid items and five additive alternates under the contract.

Contract No. 2680 was certified only for work under Phase I – Design and Permits, and a Notice to Proceed was issued to the Shimmick on January 7, 2004. Once Staff approves the design and all necessary permits have been obtained, the contract will be certified for Phase II – Construction (and all Alternates awarded) to match available funds. Pursuant to the terms of the request for bids, Shimmick's bid prices will expire on July 10, 2004, exactly eight months from the date bids were received. After July 10, 2004, the bid prices may be subject to escalation of direct costs. Staff expects to issue the Notice to Proceed immediately following adoption of the supplemental appropriation by the Board of Supervisors.

**Table 1**
**Illinois Street Intermodal Bridge, Contract No. 2680**

| Bid Item | Description | Price |
|---|---|---|
| Phase I | Lump Sum: Complete design of the bridge and approaches as set forth in the contract documents and secure necessary permits | $1,715,000 |
| Phase II | Lump sum: Construction of the bridge span only | $11,495,000 |
| | *TOTAL BID PRICE (BASE BID)* | *$13,210,000* |
| Alternate 1 | Construct the southern approach to the bridge integrated into the work performed under the Base Bid. | $2,100,000 |
| Alternate 2 | Construct the northern approach to the bridge integrated into the work performed under the Base Bid | $1,500,000 |
| Alternate 3 | Construct freight rail spur from the bridge into Pier 80. | $330,000 |
| | Remove existing freight rail spur, eliminate rail switch installed under Alternate 2, and construct street improvements. | $0 |
| Alternate 4 | Construct 8-ft shared pedestrian/bicycle path on the bridge. | $290,000 |
| Alternate 5 | Construct 4-ft bicycle path on the bridge. | $155,000 |
| | *TOTAL BID PRICE (ALL ALTERNATES)* | *$4,375,000* |
| | *TOTAL BID (BASE PLUS ALL ALTERNATES)* | *$17,585,000* |

**PROJECT BUDGET**

The current estimated total project cost for the Bridge including all design, planning, environmental, public access, and related expenses is $22.5 million which includes a 10% contingency on certain project expenses as shown below in Table 2, and more fully broken out in Exhibit II.

**Table 2**
**Illinois Street Bridge - Total Project Costs**

| Item | Cost ($) | Contingency ($) |
|---|---|---|
| Planning & Conceptual Engineering | 596,802 | |
| Environmental Studies | 414,996 | |
| Design Engineering | 2,236,146 | 171,500 |
| Construction | 16,171,895 | 1,587,000 |
| Project Management, Construction Oversight & Inspections | 430,000 | |
| Landscape and Park Improvements | 805,700 | 42,170 |
| *Project Cost Subtotal* | *20,655,539* | |
| *Contingency Subtotal* | | *1,800,670* |
| ***Total Project Costs with Contingency*** | | ***22,456,209*** |

PROJECT FUNDING

There are four elements to project funding: 1) previously appropriated money; 2) Proposition K sales tax initiative funds; 3) money to be appropriated in this Agenda item; and 4) pending funds. Of the $22.5 million project budget, $6,820,500 has been appropriated. These appropriated funds comprise:

- Port Funds - $2,320,500 (discretionary funds)
  A total of $2,300,000 in Port funds have been appropriated in the annual appropriation ordinance by the Board of Supervisors. In FY2000/01, $100,000 was appropriated to fund the cost of preliminary engineering and cost estimates for the bridge to develop a more complete concept for the project. In FY 2001/02, $2,200,000 was appropriated to fund the cost of the Bridge. Finally, in September of 2000, $20,500 in excess funds from the Downtown Ferry Terminal Project (CPO670) were transferred to the Illinois Street Bridge Project (CPO687) to pay for a topographical survey. The survey was required in order to complete the concept design for the Bridge.

- State Transportation Improvement Program (STIP) - $500,000 (non-discretionary funds)
  A $500,000 grant was provided by the STIP for costs related to environmental studies and permits for the Bridge, which was accepted for expenditure through Board of Supervisor's Resolution No. 345-01.

- STIP - $4,000,000 (non-discretionary funds)
  Pursuant to MOU M-12654 with the San Francisco Municipal Transportation Agency ("MUNI"), MUNI paid $29,700,000 for the lease in perpetuity of an approximately 17 acre parcel located in the Southern Waterfront, known as the Western Pacific site. The site is primarily for its Third Street Light Rail MUNI Metro East maintenance facility. Pursuant to the MOU, the Port agreed to dedicate $4,000,000 of this $29,700,000 payment for the construction of the Bridge. Under the MOU, the Port is also obligated to return the $4,000,000 to MUNI if

the Port fails to expend the money towards the construction of the Bridge within a specified date, subject to extension, as outlined in the MOU. Currently the Port has until December 15, 2005 to expend these funds. The $4,000,000 was appropriated in the annual appropriation ordinance by the Board of Supervisors in FY 2001/02 for the Bridge.

When Staff requested Commission authorization to advertise for bids in 2003, Staff advised at that time that the project required an additional $2 million of funding which Staff was pursuing. The need for additional project funding at that time was largely the result of a bridge design change that resulted from discussions with permitting agencies and the community. Staff has since secured an additional $2 million from the San Francisco Transportation Authority ("SFTA") as follows:

- SFTA - $2,000,000 (non-discretionary)
  The $2,000,000 for the Bridge was listed in the expenditure plan for the Proposition K sales tax initiative that was adopted by the voters at an election held in November 2003. Funds are scheduled to be received July 2004 and do not require further Board of Supervisor's action in accordance with Section 10.170-1 (h) of the City's Administrative Code.

Since securing these additional funds, new additional public access improvements (i.e., bicycle *and* pedestrian access over the Bridge) have been added to this project as conditions to required permits. Consequently, the gap in project funding is now just over $3.6 million.

Contract No. 2680 is structured so that the unfunded scope of work can be phased into the contract should funding become available in the near future. Staff recommends moving forward with Phase II of the Base Bid plus Alternates 3 through 5 ($13,497,000 including contingency) at this time with available funds and funds to be appropriated in this Agenda item. The timing is critical for two reasons. First, Shimmick's bid prices expire on July 10, 2004. Second, grant money appropriated for the project is conditioned upon the project being commenced and completed by specified dates. Delays in certifying Phase II and the alternates will result in escalation of bid prices and the potential loss of $12,401,059 in non-discretionary funds for this project.

Alternates 1 and 2 (the southern and northern approaches of the Bridge, respectively) of Contract No. 2680 will remain unfunded, as will project management, construction oversight, inspections, and landscape and park improvements (estimated cost of $3,637,570) after this supplemental appropriation request is approved. Staff have identified $6,250,000 in other potential funding to pay for these remaining items as described further below.

**SUPPLEMENTAL APPROPRIATION REQUEST**

The Executive Director is seeking Commission approval to request a supplemental appropriation in the amount of $9,998,139 to complete funding for Phase II of the Base Bid plus Alternates 3 through 5 of Contract No. 2680. Alternatives 1 and 2 are not included at this time. The supplemental appropriation request consists of $3.58 million in Port funds and $6.42 million in revenues received or anticipated, as more fully described below.

- Catellus Contribution - $4,300,000 (non-discretionary funds)
  Pursuant to the Mission Bay South Infrastructure Plan (an agreement between Catellus Corporation, The City and County of San Francisco and The Port, as amended, and referred to as

the "Infrastructure Plan"), Catellus is obligated to provide up to $4,300,000 toward the construction costs of the Bridge.

Under the Infrastructure Plan, Catellus is obligated to maintain the Port's direct rail connection between Piers 48, 50 and 80, and the main line up the Peninsula. This connection, which ran along 16th Street, crossing the Mission Bay development site, was eliminated effective January 1, 2003 as part of the Mission Bay development. In lieu of their obligation to restore this rail connection, Catellus agreed to provide the equivalent amount to fund the Bridge instead.

Catellus' obligation to provide these funds is contingent upon the Port meeting certain conditions within a specific date. The Port has until December 3, 2004 to meet these conditions. Currently the Port has met all but certain permitting conditions required. If, however, the Port fails to construct the Bridge, Catellus is obligated to reconstruct the 16th Street lead to provide rail service back to Pier 80.

- Mitigation Fees - $2,117,059 (non-discretionary funds)
  The Southern Waterfront Supplemental Environmental Impact Report (certified February 15, 2001) identified the Illinois Street Bridge as an environmental impact mitigation measure. The traffic circulation benefits of the Bridge not only accrue to Port cargo maritime operations, but also to the general circulation of other Port businesses in the Pier 80 to Pier 94-96 area, including several tenant businesses which have secured leases in the area. Accordingly, in its efforts to secure the funding from several different sources necessary to construct the Bridge, the Port has included provisions in new Southern Waterfront leases that require a financial contribution towards Southern Waterfront infrastructure improvements, the first priority being the Bridge.

  New leases with six Port tenants contain the new impact mitigation fee provisions. To date the Port has received $1.87 million of the total $2.12 million in such fees, and expects to receive the $0.25 million remaining balance during FY 2004/05.

- Port Funds - $3,581,080 (discretionary funds)
  An additional $3,581,080 in funding will be provided by the Port for this project. The source of these funds will be the Port's unappropriated fund balance.

**REMAINING PROJECT FUNDING AND IDENTIFIED FUNDING SOURCES**

An estimated project cost of $3,637,570 will remain unfunded after this supplemental appropriation request is approved. These expenses represent costs required to construct the Alternates 1 and 2 bid items for Contract No. 2680 (the north and south approaches to the Bridge), and for construction oversight, inspection and other costs associated with the Bridge. Rising steel prices and currently unknown complications or other factors that cannot be predicted today could result in a total final project cost greater than the current $22.5 million estimate.

Port Staff continues to work diligently to secure additional sources of funds for this project to cover the estimated remaining costs. To date, Staff has identified $6,200,000 in potential funding for this project as more fully described below.

- TEA-3 Earmark - $5,000,000 (non-discretionary funds)

The Illinois Street Bridge project has been identified as a high priority item by the U.S. Department of Transportation, and this funding is included in a Federal Transportation Act appropriations bill for FY 2004/05. This bill is currently awaiting action by a House-Senate conference committee, and signature by the President. Congresswomen Nancy Pelosi was instrumental in securing this earmark on behalf of the Port.

- SFTA - $750,000 (non-discretionary funds)
  An additional $750,000 for bicycle improvements was included in the expenditure plan for the Proposition K sales tax initiative adopted by the voters in November 2003. The City's Department of Parking and Traffic, the recipient of the funds, has agreed to provide this funding to the Port to be used for the bicycle/pedestrian path components of the project, and have asked the Board of the SFTA for authorization to do so.

- Association of Bay Area Governments (ABAG) - $200,000-$250,000 (non-discretionary funds)
  ABAG has verbally indicated to the Port that they will provide between $200,000 and $250,000 for public access components of the Bridge. Port Staff continue to work with ABAG to secure these funds.

- California Resources Agency - $250,000 (non-discretionary funds)
  The Port has applied through the California Resources Agency for an Environmental Enhancement and Mitigation ("EEM") grant in the amount of $250,000. A decision on the Port's grant application is expected in August 2004. These funds, if awarded, can only be used to cover costs associated with the public access components of the Bridge.

**COMMUNITY INVOLVEMENT**

The Bridge has been the subject of review at several meetings of the Southern Waterfront Advisory Committee ("SWAC"), which has served as the most frequent public forum for disseminating information to and obtaining community feedback on the project. In addition to the SWAC meetings, meetings have been conducted with the Bayview Hunters Point Project Area Committee ("PAC"), Maritime Commerce Advisory Committee ("MCAC"), the owner and tenants of the 1800 Illinois Street building adjacent to the Bridge, the Pier 70 Advisory Committee, the San Francisco Bay Conservation Development Commission ("BCDC") and other groups to solicit comments and discuss specific Bridge design and operational details and options.

In February 2002, Port staff provided the Commission with a written Staff report (attached Exhibit III) and gave an informational presentation on the Bridge, which contained details of the various community issues addressed. Since February 2002, the Port has conducted several additional community meetings that have further advanced the design and scope of the Bridge. Some of these meetings were held in conjunction with BCDC, which was required as a part of securing the BCDC permit, one of several permits required to construct the Bridge.

Exhibit IV provides an updated list of the community meetings that have been held on this project. Meetings listed are those that have occurred since July 2001. Previous public meetings were held, but beginning in July 2001, the Port stepped up its community outreach to discuss various issues and concerns regarding the Bridge. Based on these public meetings, conceptual design modifications were made that have increased the cost of the project.

## ENVIRONMENTAL REVIEW

The environmental impacts of the Illinois Street Bridge were analyzed in the Southern Waterfront Final Supplemental Environmental Impact Report (SEIR), certified by the Planning Commission in February 2001, which supplements the Waterfront Land Use Plan Final EIR (WLUP FEIR), certified in January 1997. Both EIR's were prepared by the San Francisco Planning Department pursuant to CEQA and associated CEQA Guidelines. The WLUP FEIR analyzed at a program level the impacts associated with the Waterfront Land Use Plan. The SEIR evaluated leases and development activities proposed or contemplated for Port Southern Waterfront properties, and supplemented the environmental impacts, mitigation measures and alternatives in the WLUP FEIR. The SEIR is a Program EIR, as defined under CEQA, which also analyzes the project specific impacts of certain of the uses proposed to occur in the Southern Waterfront. The Illinois Street Bridge was one of those specific components studied in the SEIR.

Subsequent to the certification of the SEIR, the Planning Department prepared an Addendum to the SEIR, dated December 9, 2002, which addresses the environmental consequences of modifications that have been made to the Bridge design since SEIR certification, and comments or new information that had become available that related to the Illinois Street Bridge. The Addendum to the SEIR concluded that the proposed design modifications, the new information, or any change in the circumstances under which the Bridge will be undertaken, did not require major revisions to the previous WLUP FEIR or the SEIR because there were no new significant environmental effects identified, nor any increases in the severity of previously identified environmental effects. In addition, the new information did not result in identification of new or substantially different feasible mitigation measures than those already described in the SEIR.

Following Port Commission review and consideration of the environmental analysis, and adoption of CEQA Findings, Mitigation Measures and a Mitigation Monitoring Plan, the Commission, by Resolution No. 02-61, approved the project. The Port filed a certificate of determination, which was posted as required, with no objection raised. Port staff has determined that since the completion of the Addendum, there is no new information or changes in circumstances that would require preparation of an Addendum or further environmental analysis. The only modifications to the bridge design are those required by BCDC permit conditions to improve public access by adding pedestrian and bicycle access on the Bridge, and as such, the modifications do not require major revisions to the previous WLUP FEIR or SEIR because there are no new significant environmental effects identified, nor any increases in the severity of previously identified environmental effects associated with those modifications.

The CEQA findings for the Illinois Street Bridge include: 1) a detailed description of the scope and relationship of the WLUP FEIR, the SEIR, and the SEIR Addendum; 2) a description of the Illinois Street Bridge; and 3) the mitigation measures that will be required to be implemented as part of the construction of the Bridge. The Commission also adopted an Illinois Street Bridge Mitigation Monitoring Program that describes in detail how each of the applicable mitigation measures will be implemented. These documents are available for review upon request at the Port offices at Pier 1, The Embarcadero.

## RECOMMENDATION

The Executive Director recommends that the Port Commission authorize the Executive Director to request a supplemental appropriation as provided in the attached resolution, consistent with this Staff report.

Prepared By: Kathy Nakazawa, Project Manager
Lawrence Brown, Financial Analyst

**PORT COMMISSION**
**CITY AND COUNTY OF SAN FRANCISCO**

**RESOLUTION NO. 04-46**

WHEREAS, The Illinois Street Bridge will be an intermodal bridge that allows combined freight rail, truck/auto/bicycle and pedestrian traffic that will connect the Port's cargo terminal (Pier 80) on the north side of Islais Creek with the southern terminals at Piers 90-96 located on the south side of the creek, and provide public access; and

WHEREAS, The Bridge will include a fully mechanized movable span that will maintain access to the west end of Islais Creek for commercial vessels and larger recreational boats in the open position, yet allow for smaller recreational boats (e.g., kayaks, canoes, etc.) to navigate beneath it in the closed position, with the same vertical clearance as the Nishkian Third Street Bridge; and

WHEREAS, The Bridge will mitigate industrial traffic from Port activities on Third Street, particularly truck trips that otherwise are projected to congest the intersection of Third Street and Cargo Way, will create a second crossing of Islais Creek that will help offset the reduced vehicle capacity on Third Street that will result from the MUNI light rail transit project's elimination of one traffic lane in each direction; and

WHEREAS, Pursuant to the requirements of the California Environmental Quality Act, California Public Resources Code Sections 21000 et seq., (CEQA), the Guidelines for Implementation of CEQA, 15 Cal. Administrative Code Sections 15000 et seq. (CEQA Guidelines) and Chapter 31 of the San Francisco Administrative Code, the Port Commission reviewed and considered the environmental impact analyses, and adopted findings prior to approving the Illinois Street Intermodal Bridge project by Resolution 02-61, and the Environmental Impact Report files were made available for review by the Port Commission and the public, and these files are part of the record before the Port Commission; and

WHEREAS, The Waterfront Land Use Plan Final Environmental Impact Report, certified by the San Francisco Planning Commission on January 9, 1997, together with the Southern Waterfront Final Supplemental Environmental Impact Report (SEIR), certified by the Planning Commission on February 15, 2001, Case No. 1999.377E provide a comprehensive evaluation of the impacts of a variety of activities in the Southern Waterfront area of the Port, including specific maritime industrial leases, Port infrastructure projects and a conceptual development program of other potential activities on Port property; and the Illinois Street Bridge is one of the components of the overall project evaluated in the SEIR; and

WHEREAS, The Planning Department's Environmental Review Officer issued an Addendum to the SEIR (Addendum) on December 10, 2002, to address proposed changes to the Illinois Street bridge design, and concluded that revisions to the SEIR were not required; and

WHEREAS, The Port Commission adopted CEQA findings, and established a Mitigation Monitoring and Reporting Program, as required by Section 21081.6 of the Public Resources Code, and as attached to Commission Resolution 02-61 adopted on December 17, 2002, (Exhibit C "Findings of the Port Commission Approving the Illinois Street Vehicle/Rail Bridge Crossing Islais Creek"; Exhibit D "Illinois Street Bridge Mitigation Monitoring and Reporting Program"); and

WHEREAS, The Port Commission finds that since the completion of the Addendum, no new information has come to light that would result in identification of new or substantially different feasible mitigation measures than those already described in the SEIR, and that although the BCDC permit required the Bridge design to be modified to include pedestrian and bicycle access, no important revisions are needed in the SEIR because no new significant impacts, nor substantial increases in the severity of previously identified significant effects, would result from the Bridge project, nor are there changes in circumstances under which the Bridge would be undertaken that would require major revisions to the SEIR due to new significant effects or a substantial increase in the severity of previously identified significant effects, and no new information has come to light that would indicate the potential for new, or more severe, significant impacts than those discussed in the SEIR; and

WHEREAS, The Port Commission authorized award of Contract No. 2680 for design build services to Shimmick Construction Company, Inc. by Resolution No. 03-70 on November 18, 2003 and the contract was structured to allow for the design and construction to be completed in a phased manner to match available funds, with certification for work under Phase I design and engineering only, authorized by a notice to proceed on January 7, 2004; and

WHEREAS, Upon approval of the design and necessary permits, the contract may be certified for Phase II - Construction (and all Alternates awarded) to match available funds, with an anticipated start date of July 10, 2004 as required to preserve the contractor's bid price; and

WHEREAS, To date a total of $6,820,500 in Port, grant and other funding has been appropriated for the Bridge project, including $2,320,500 in Port funds through the Capital Plan budgeting process, $500,000 in State Transportation Improvement Program grant funds, and $4,000,000 of the use fee received for MUNI's use of the Port's Western Pacific Rail Yard property; and

WHEREAS, The Phase II construction cost for the Base Bid plus Alternates 3 through 5, to include contingency, as more specifically described in the staff report for this Agenda item, is $13,497,000 and the bid items for the contract can not be certified or encumbered until the funding is appropriated, so the Port is seeking approval to request a supplemental appropriation in the amount of $9,998,139, of which $3,581,080 would be from the Port's unappropriated fund balance, and $6,417,059 is from non-discretionary revenues received or anticipated, as described herein; and

WHEREAS, The Port has received a commitment of $2,500,000 from Catellus Development Corporation under the Mission Bay South Infrastructure Plan, Memorandum of Modification No. 4 towards the cost incurred by the City in the construction of the

Illinois Street Bridge subject to certain conditions, including a commitment of funding from the City for the balance of the cost of constructing the Illinois Street Bridge within 5 years of the Effective Date, and the Port's agreement to abandon all rail lines within the South Plan Area north of Mariposa Street upon completion of the work; and

WHEREAS, The Port has received a commitment for an additional $1,800,000 contribution from Catellus to allow for temporary suspension of the rail service to Pier 80 from January 1, 2003, at the earliest, until completion of the Illinois Street Bridge; and

WHEREAS, The Port established a policy of requiring contributions to fund Southern Waterfront infrastructure improvements, of which the Bridge is the first priority, as a condition of approval for leases in the Southern Waterfront and has anticipated revenue from this source of $2,117,059, of which $ 1,866,397 was received to date from existing tenants, with an additional $250,662 anticipated during FY 2004/05; and

WHEREAS, The Port is also scheduled to receive in July 2004, from the San Francisco Transportation Authority (SFTA), $2,000,000 in funds from the Proposition K sales tax initiative, which funds will not require further appropriation action; and

WHEREAS, There continues to be a funding gap to fund the full complement of Alternates for the Bridge, and staff is working diligently to secure additional sources of funds, with $6,250,000 in potential funding for this project identified in the staff report accompanying this Agenda item; and

WHEREAS, The Bridge project has been identified as a high priority item by the U.S. Department of Transportation, and funding in the amount of $5,000,000 is included in a Federal Transportation Act appropriations bill, and additional sources have been identified at SFTA (for bicycle paths), Association of Bay Area Governments (public access) and California Resources Agency (environmental enhancement); and

WHEREAS, The Bridge project has been discussed at numerous community meetings beginning in July 2001, as listed in the staff report for this Agenda item, and at public hearings before the Port's citizen advisory committees, BCDC and Port Commission; now, therefore, be it

RESOLVED, That the Port Commission authorizes the Executive Director to request approval of the Mayor and Board of Supervisors of a supplemental appropriation in the amount of $9,998,139 of which $ 3,581,080 will be provided from the Port's unappropriated fund balance, and $6,417,059 is from other non-discretionary sources as discussed in the staff report for this Agenda item.

***I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of May 25, 2004.***

_____

Secretary

## Exhibit I
## Bridge Type and Estimated Project Cost From 1985 to Contract Award

| Date | Bascule (Drawbridge) | Fixed | Lift Segment | Movable | Comments |
|---|---|---|---|---|---|
| 1985 | $ 4,000,000 | | | | A drawbridge is the same as a bascule bridge (see below). As identified in the EIR for the San Francisco Container Modification project (Final EIR 1986). |
| Nov-97 | | $ 4,400,000 | | | A fixed bridge is a standard bridge that does not open to allow watercraft to pass through it. The Port was evaluating the viability of constructing a fixed bridge instead on the basis that Islais Creek could be de-designated as a navigable waterway. |
| Oct-97 | | $ 6,170,000 | | | Refined cost estimate. |
| Jul-00 | | | $12,391,800 | | A lift-segment bridge a bridge that can be disassembled with a crane or other external means. A lift-segment bridge was sought since it could maintain watercraft access on an infrequent basis at an additional cost. |
| Aug-00 | | | $16,501,681 | | Refined cost estimate. |
| Oct-00 | $17,400,000 | | | | A bascule bridge is one that opens and closes mechanically or hydraulically on demand. The Port revisited constructing a bascule bridge and revised project costs. |
| Jan-01 | | | | $11,000,000 | A movable bridge is one that opens to allow watercraft to pass through it, but requires advance notice and time to open and close it. Estimate is for construction of the bridge only based on cost provided a contractor with a proprietary design that was to be constructed through Catellus. |
| Jan-02 | | | | $11,000,000 | No change in cost estimate. |
| Dec-02 | | | | $16,500,000 | Revised cost to include all projects, including design, construction, management, etc., based on a proprietary movable bridge design. |
| Apr-03 | $ 19,800,000 | | | | Cost estimate was refined based on most-expensive bridge type (hydraulic bascule) in anticipation that respondents to the Request for Qualifications would propose a range of possible bridge types. |
| Nov-03 | $ 22,500,000 | | | | Based on bids receive for a hydraulic bascule and the Engineer's estimated cost to complete the project. |

# EXHIBIT II

## Illinois Street Bridge

### SOURCES AND USES OF PROJECT FUNDING

**PROJECT COSTS**

| *Total Currently Estimated Bridge Project Costs* | Status | Budget | Contingency |
|---|---|---|---|
| *Planning & Conceptual Engineering* | Complete | 596,802 | |
| *Environmental Studies* | Complete | 414,996 | |
| *Design Engineering* | | | |
| Phase I -- Design and Permits for Bridge & Approaches | In Process | 1,715,000 | 171,500 |
| Landscape/Street/Traffic Design, Design Review & Project Mgm't | In Process | 521,146 | |
| *Construction* | | | |
| Illinois Street Roadway Reconstruction | Complete | 301,895 | |
| Bridge Span Construction (Phase II Base Bid) | Not Started | 11,495,000 | 1,149,500 |
| Southern Bridge Approach (Alternate 1) | Not Started | 2,100,000 | 210,000 |
| Northern Bridge Approach (Alternate 2) | Not Started | 1,500,000 | 150,000 |
| Direct Rail Spur (Alternate 3) | Not Started | 330,000 | 33,000 |
| 8-ft Bike/Ped Public Access on Bridge (Alternate 4) | Not Started | 290,000 | 29,000 |
| 4-ft Bike Public Access on Bridge (Alternate 5) | Not Started | 155,000 | 15,500 |
| *Project Management, Construction Oversight & Inspections* | Not Started | 430,000 | |
| *Landscape and Park Improvements* | Not Started | 805,700 | 42,170 |
| **Total Project Costs** | | **20,655,539** | 1,800,670 |
| | | **22,456,209** | |

**SOURCES OF FUNDING**

| *Board Approved Appropriations* | Amount | Expended or Committed | Available |
|---|---|---|---|
| Capital Budget FY 2000/01 (CPO814) | 100,000 | 99,705 | 295 |
| Capital Budget FY 2000/01 (CPO687) | 6,200,000 | 3,266,616 | 2,933,384 |
| State Transportation Improvement Program Grant (CPO133) | 500,000 | 500,000 | 0 |
| Total Baord Appropriations | 6,800,000 | 3,866,321 | 2,933,679 |
| *Other Appropriated Funding* | | | |
| Surplus Transfer from Downtown Ferry Terminal Proj (CPO670) | 20,500 | 20,500 | 0 |
| **Total Appropriations** | **6,820,500** | **3,886,821** | **2,933,679** |
| *Current Supplemental Appropriation Request* | | | |
| Port Capital Budget | 3,581,080 | | |
| Catellus Corporation Contribution | 4,300,000 | | |
| Mitigation Fees from Port Tenants in Southern Waterfront | 2,117,059 | | |
| Total Appropriation Request | 9,998,139 | | |
| Subtotal | 16,818,639 | | |
| *Other Funding* | | | |
| SF Transportation Authority Funding | 2,000,000 | | |
| ***Total Currently Identified Funding*** | ***18,818,639*** | | |
| *Funding Gap* | *3,637,570* | | |
| *Potential Future Funding & Appropriations* | | | |
| TEA-3 Eammark Funding | 5,000,000 | | |
| SF Transportation Authority- Add'l Funding | 750,000 | | |
| Association of Bay Area Governments Grant | 250,000 | | |
| California Resourcs Agency EEM Grant | 250,000 | | |
| | 6,250,000 | | |

**Exhibit III**

**February 12, 2002 Commission Meeting Staff Report**

PORT OF SAN FRANCISCO

# MEMORANDUM

February 6, 2002

**TO:** MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Kimberly Brandon, Vice President
Hon. Brian McWilliams
Hon. Denise McCarthy
Hon. Pius Lee

**FROM:** Douglas F. Wong
Executive Director

**SUBJECT:** Proposed Illinois Street Freight Rail and Truck Bridge Project – Commission Hearing to Receive Public Comments

**ACTON:** No Action, Receive Public Comments

**Summary**
The Port proposes to construct the Illinois Street Freight Rail and Truck Bridge, to create a direct transportation connection over Islais Creek, between the North and South Cargo Terminals. This memorandum provides a detailed description of the Bridge project and funding requirements, regulatory requirements, and construction schedule. In addition, this staff report outlines the Port's extensive engineering analysis and community outreach efforts to develop a project that responds to public questions and concerns. In response to public request, the Port Commission has scheduled a public hearing on February 12, 2002 to receive public comments on this important Port maritime project.

**Project Description**
The Port of San Francisco began planning the Illinois Street Rail/Vehicle Bridge in the mid-1980's as part of its efforts to improve the North and South Cargo Terminals on Piers 80, and 94-96. Recognizing that efficient transportation access by train and truck is essential to successfully marketing and operating terminals, the Port proposed that the Bridge extend Illinois Street over Islais Creek to provide an efficient inter-terminal connection. At that time, the Port also recognized that such a Bridge would reduce traffic on Third Street, particularly at Cargo Way, which today is considered to be even more desirable because Third and Cargo Way have been identified as an important gateway to Bayview Hunters Point.

This Print Covers Calendar Item No. **5A**



T OF SAN FRANCISCO
TEL 415 274 0400 TTY 415 274 0587 ADDRESS Pier 1
FAX 415 274 0528 WEB sfport.com

Port engineering staff have carried out substantial engineering, design and cost estimate studies to develop a conceptual design for the Illinois Street Rail/Vehicle Bridge. The proposed Bridge will be approximately 31 feet wide, providing two lanes for vehicle traffic, and a single freight railroad track running down the center of the bridge. Vehicle traffic on the Bridge will be temporarily cleared when freight trains are crossing the Bridge. Vehicle traffic will be able to travel from Illinois Street on the north side of Islais Creek to a new roadway constructed on Port property on the south side of the Creek, which will connect with existing Amador Way and Cargo Way. The Bridge lanes would be open to bicycles, however there are no pedestrian sidewalks proposed on the Bridge.

Due to extensive fundraising efforts and bridge design research, the Port has found that there are possible bridge designs that are fully moveable, that is, they can be mechanically opened to provide full vessel access westward along Islais Creek. In its closed position, the Bridge will maintain a clearance equal to that provided by the Levon Hagoop Nishkian Drawbridge on Third Street, located immediately to the west. The most restrictive clearance would be three feet at high, high water level, still sufficient to allow kayaks, outrigger canoes and other hand-powered craft to pass with the Bridge closed. A rendering of a proposed conceptual design for the Bridge is presented in *Attachment A*. The estimated cost of the Bridge is $11 million. The specific bridge design and cost will be determined in a competitive Design/Building bid process.

Port Engineering staff have endeavored to design the placement of the Bridge to minimize the amount of street space occupied and preserve truck loading access to the industrial building across from Pier 80 at 1800 Illinois Street, while still allowing connection to the rail tracks in Illinois Street. The Bridge would occupy the easternmost portion of the 80-foot wide Illinois Street right of way.

The Bridge will require permits from BCDC, the U.S. Coast Guard, and U. S. Army Corps of Engineers.

**Project Purpose**

The Port has invested over $50 million in the development and maintenance of the North and South Marine Terminals at Pier 80 and Pier 94-96. Fundamental to any modern terminal is the need to provide freight rail and truck access to allow goods to be shipped through as quickly as possible. While these Port terminals are fully-serviced, able to accommodate container and non-containerized cargo, and thus marketable to wide variety of customers, Pier 80 does not have optimal freight rail access. The Pier 94-96 terminal enjoys direct freight rail service from the south, via the Quint Street lead. However, today, freight rail service to Pier 80 is possible only via a circuitous route that requires freight trains to travel north into Mission Bay before they can access tracks on Illinois Street and reverse south to Pier 80. The Illinois Street Rail/Vehicle Bridge, included in the Port's cargo terminal modernization plan in the 1980's, cures this constraint by providing a direct connection over Islais Creek from rail tracks serving Pier 94-96 to the Illinois Street rail tracks on the north side of Islais Creek. From there, freight trains would be able to directly access Pier 80, resulting in a much shorter, quicker and cheaper route than the existing Mission Bay route.

*Attachment B* shows the existing freight rail route to Pier 80, as compared to the route with the

Illinois Street Rail/Vehicle Bridge. With the Bridge, the distance between the Quint Street lead and Pier 80 would be 0.66 miles, versus 3.3 miles along the existing route through Mission Bay. The shorter rail route will take far less time, since there will be fewer street grade crossings and less reliance on the street right of way. Traffic hazards and conflicts between railcars, automobiles, bicycles and pedestrians will also be reduced, thus increasing operational safety and efficiency. These benefits of rationalizing freight rail service to Pier 80 also were discussed and endorsed by the Bay Conservation and Development Commission (BCDC), in its extensive review and approval of the Mission Bay Plan. The Bridge would realize objectives of BCDC's Seaport Plan and, because it would result in elimination of the need for tracks in Mission Bay's Bayfront Park, it also meet another important BCDC objective of improving public access quality in Mission Bay.

In addition to improving access to Pier 80, the bridge will improve the efficiency between the North and South Cargo Terminals. The rail distance between the Terminals will be reduced from approximately four miles to approximately 0.2 miles. The bridge will provide a direct rail link between Pier 80 and the Intermodal Container Transfer Facility (ICTF, a freight rail yard that allows cargo to be transferred between ships and rail without leaving the terminal) along Cargo Way. In addition, trucks and vehicles using the Bridge between the terminals and to Cesar Chavez Avenue will relieve and distribute traffic otherwise destined for Third Street and Cesar Chavez via Cargo Way.

The Port has seen increasing interest from prospective maritime tenants that wish to locate at Pier 80 and would be inclined to use rail service. The high level of traffic congestion of Bay Area freeways and bridges that occurs during much of the business day has increased transportation costs of trucking, thus highlighting the benefits of improved rail efficiency if the Illinois Street Bridge is built. In addition, there is concern that construction of the MUNI Third Street light rail transit line, approved by the City, will greatly constrain commercial and industrial short-haul trucks serving businesses in the southeast area of the City, because it will require the removal of two travel lanes on Third Street. The Bridge would therefore not only improve the viability of freight rail, it also would provide an alternate vehicle route for commercial and industrial businesses in the area.

**Funding**

The estimated construction cost of the current Bridge design is $11 million. Until relatively recently, the Port's efforts to secure full funding had been unsuccessful. In 2000, the Port secured $4.5 million in transportation grant funds approved through the San Francisco Transportation Authority. Another $2.5 million in project funding has been provided by Catellus Development Corporation, pursuant to the Mission Bay Infrastructure Plan approved by the City. Under the Infrastructure Plan, the $2.5 million funding is available for a limited duration; if the Port does not commence with the Bridge project by November 2003, Catellus will no longer be obligated to provide the funding. In Fall 2001, the Port negotiated with Catellus to secure an additional $1.8 million. The remaining $2.2 million in funding will be provided through Port capital funds and the rest by revenues from new Port leases in the Southern Waterfront.

**Community Outreach**

Over the years, the Port has maintained its efforts to realize the Illinois Street Rail/Vehicle

Bridge, to aggressively seek and secure funding, and to work with the community to shape the project and build support. In the early and mid-1990's, the Port proposed a "lift-segment" bridge design, wherein a crane would have been required to lift a bridge section away to allow passage by large vessels. Due to funding constraints and the fact that the portion of Islais Creek west of the Third Street Bridge no longer is used for maritime cargo vessel berthing, the Port did not believe that the significant extra cost of a self-powered moveable bridge was justified. Public comments and concerns from the Friends of Islais Creek, other recreational boating interests, and the Fire Department supported the Bridge idea, but insisted that a fully moveable design be found to preserve the option for possible future access by large vessels or tall sailboats. In response, the Port's engineering staff secured consultants to assist the Port in analyzing a wide variety of bridge designs and costs. After researching bridge designs in the field, staff was able to find examples of moveable bridge designs at much lower costs than drawbridge and other bridge designs previously analyzed. The Port then focused on securing the additional necessary funding to move forward on the project as it is now proposed.

The Illinois Street Bridge was one of several Port projects analyzed in the Southern Waterfront Supplemental EIR (SEIR), which was certified in February 2001. Prior to publication of the SEIR in September 2000, the City held public scoping meetings to review the projects and land uses that were to be analyzed, including the Illinois Street Rail/Vehicle Bridge.

Once the Port had secured full project funding, Port staff stepped up its community outreach efforts to provide information about the project, and to solicit and respond to community comments. Below is a list of meetings organized or attended by Port staff to address the Illinois Street Bridge project. All Port meetings were noticed, and the Port expanded its outreach on its most recent community meeting by mailing notices to property owners within 0 .5 mile of the Bridge site, as well as to those that attended previous community meetings.

| **Date** | **Group/ Meeting Sponsor** |
|---|---|
| 7/30/01 | Southern Waterfront Advisory Committee (SWAC)/ Port |
| 8/1/01 | Maritime Commerce Advisory Committee (MCAC)/Port |
| 8/4/01 | Muwekma Ohlone Park Community/ David Erickson |
| 8/20/01 | SWAC/ Port |
| 9/6/01 | Southern Waterfront Community at Pier 80/ Port |
| 9/12/01 | MCAC/Port |
| 9/17/01 | SWAC/ Port |
| 9/ 25/01 | Port Commission hearing, action to preserve Mission Bay funding option/ Port |
| 9/25/01 | Central Waterfront Community – Better Neighborhoods Planning Workshop/ San Francisco Planning Department |
| 10/10/01 | MCAC/Port |
| 10/10/01 | Pier 70 Advisory Group/ Port |
| 10/15/01 | 1800 Illinois Street Owner & Tenants/ Port |

| | |
|---|---|
| 10/22/01 | Bayview Hunters Point Project Area Committee (BVHP-PAC) Land Use Committee/ BVHP PAC |
| 11/5/01 | 1800 Illinois Street Owner & Tenants/ Port |
| 11/14/01 | MCAC/Port |
| 12/18/01 | Southern Waterfront Community at Pier 1/ Port |
| 1/16/01 | BVHP Community- MUNI Third Street Light Rail and Nearby City Projects/ BVHP Community and MUNI |

On August 20, 2001, the Southern Waterfront Advisory Committee (SWAC) approved a motion to recommend support of the Iilinois Street Bridge, but requested staff to 1) convene at least two additional meetings with the community; 2) investigate ways to provide safe pedestrian and bicycle access; and 3) investigate the possibility of restricting through traffic on the Bridge. On September 25, 2001, the Port Commission expressed support of the Bridge project, and also directed staff to conduct further community meetings.

On September 12, 2001, the Maritime Commerce Advisory Committee approved a motion recommending support of the Bridge.

Most of the public comments received since then have been generated by the owner and tenants of the warehouse on 1800 Illinois Street, adjacent to the proposed Bridge. Some of these tenants have been involved in planting the shoreline adjacent to the south side of the Pier 80 terminal, which site has been proposed for further improvement as an open space tribute to the Muwekma Ohlone people. Accordingly, special meetings with these stakeholders were held to address their concerns and conduct additional engineering and alternative site studies. Recently, the Port received a letter from the owner of 1800 Illinois Street indicating that he no longer opposes the Bridge project. The following is a summary of the key issues of concern raised in the various community meetings and the Port's response to each of the issues. More detailed information about the Bridge project, contained in meeting minutes and community correspondence is available for public review at the Port's office.

***Concern: Does the bridge need to include vehicular traffic as opposed to just rail access?*** Due to the fact that rail access to Pier 80 is poor, transportation access to that facility has been almost exclusively by truck. Even with the Bridge constructed, today's marine terminals cannot operate exclusively by freight rail and must provide efficient truck access to maintain viability. The Port's Maritime staff has attended the majority of the community meetings to explain this fact, and answer questions about the relationship between the Illinois Street Bridge and the Port's maritime terminals. In addition, the Southern Waterfront SEIR identifies the Bridge as a traffic mitigation measure that would relieve future congestion at the Third Street/Cargo Way intersection by providing a second access route to Cesar Chavez Avenue and I-280.

***Concern: Could the proposed bridge be shifted to the east, aligned with either Michigan Avenue or the MUNI utility duct bank?*** The Port analyzed several alternative alignment and rail configurations. The constraints with the Michigan Avenue alignment are 1) new rail tracks would not align with the existing tracks in Illinois Street without acquiring private property; 2) increased project costs by $2.5 to 3.7 million; 3) it would cross through and thus hinder or

preclude efforts to improve the shoreline adjacent to Pier 80, including those supported by advocates of the Muwekma Ohlone open space. With respect to the MUNI duct banks (construction of conduits crossing Islais Creek to provide power to the Third Street Light Rail), the Port must maintain a minimum distance from those MUNI (and additionally, Hetch Hetchy Water and Power) utility lines. The current Bridge alignment location is designed to meet that minimum distance requirement, plus provide a limited additional margin of separation of about 10 feet. A summary table comparing the various Bridge alignments is provided in *Attachment C.*

***Concern: Can the bridge be vertically aligned so that it would not limit truck access to the 1800 Illinois Street Building?*** The Port realigned the Bridge so that 40-50 feet of the street right-of-way will remain clear to allow access to 1800 Illinois Street by all types of vehicles and trucks. Earlier bridge design concepts included a retaining wall in the street right of way, which would have hampered or precluded loading access by large rigs transporting containers. In discussions with the owner of 1800 Illinois Street, the Port is negotiating modifications that would raise the entire street grade to be flush with the building entrances, eliminating the need for a retaining wall, and therefore any impediment to truck loading by trucks of all sizes.

***Concern: Will the bridge reduce the number of parking spaces in the vicinity of the proposed bridge?*** The Port conducted a parking space survey of the area and developed a parking re-striping program that preserves the existing number of on-street parking spaces on Illinois, between 25$^{th}$ Street and Islais Creek.

***Concern: Would the proposed bridge limit access or interfere with either Tulare Park or the Muwekma Ohlone Open Space?*** Tulare Park, located on the north side of Islais Creek, between Illinois and Third Streets, would remain as is and access to it will not be altered. Public access to the shoreline bank on the south side of Pier 80, which may be developed as the Muwekma Ohlone Open Space, is proposed to be provided via a pedestrian walkway on the western edge of Pier 80, running parallel to Illinois Street, from Marin Street to Islais Creek. Specific planting and landscape designs for this embankment have yet to be defined.

***Concern: Will the proposed bridge have a bicycle lane?*** There are no dedicated bicycle lanes proposed in the Bridge design, but bicyclists will be able to share the vehicle lanes as long as a train is not present. The existing Bay Trail uses the Third Street Bridge as the dedicated route, which will remain.

***Concern: Will the proposed Bridge significantly increase the diesel emissions in the area, particularly in the vicinity of the 1800 Illinois Street Bridge?*** The Port agreed with and supported the initiative taken by the Planning Department to incorporate into the SEIR an air quality analysis that far exceeded what is usually included in other EIR's. The SEIR air quality analysis, therefore, included a separate modeling effort to evaluate the effects of diesel emission on public health in the southeast area of the City and concluded that the increase in diesel emissions associated with potential future development would not exceed the significance threshold for diesel particulates. Subsequent to completion of the Final SEIR, Port staff directed its environmental consultant, ESA Associates, to conduct additional site-specific diesel emission analysis on occupants of the 1800 Illinois Street building. That analysis, which is discussed in detail in *Attachment D* concludes that even given a series of conservative (worst-case)

assumptions, diesel emission levels would not be considered significant under current regulatory standards.

In the most recent Illinois Street Bridge community meeting held by the Port in December 2001, several members of the public requested that the Port Commission hold a hearing to receive public comments. Accordingly, the Commission will hold a public hearing for this purpose on February 12, 2002.

***Concern: How does the Illinois Bridge project relate with other public projects occurring in the southeast area of the City?*** The Port is working closely with MUNI, Department of Public Works, Department of Parking and Traffic regarding the following nearby projects that are approved, and scheduled for construction: 1)MUNI Metro East; 2) Illinois Street repaving between 25th Street and Cesar Chavez; 3) MUNI Third Street Light Rail (including the seismic retrofit of the Levon Hagoop Nishkian Drawbridge on Third Street); Sewage line and shoreline open space repairs currently underway resulting from rupture during construction of MUNI Duct Banks. With respect to Items 1 and 2, the Port has been working with MUNI to coordinate construction and compatible operation of separate freight rail and light rail trackage and signalization. In addition, the Port has been working with the Department of Public Works to pave Illinois Street on a schedule consistent with the MUNI Metro East facility, and consistent with Illinois paving, gutter and sidewalk improvements to be performed by the Port for the Illinois Street Bridge. With respect to Item 3, MUNI and the Port have attempted to coordinate construction scheduling between the Illinois Bridge and Third Street Bridge seismic retrofit. Upon learning that the Illinois Street Bridge could not be completed in time for MUNI to close the Third Street Bridge for repairs, MUNI adjusted its construction process and has committed to carry out the seismic retrofit without closing the Bridge to daytime traffic. With respect to Item 4, the MUNI duct bank repairs, MUNI and its contractor are taking the lead in working with the Port, Public Utilities Commission agency and David Erickson to provide compensation for the property damage created by this unfortunate incident.

**Environmental Impact Analysis**

As described above, the Illinois Street Rail/Vehicle Bridge was analyzed in the Southern Waterfront Supplemental EIR (SEIR), certified in February 2001. The SEIR did not find any significant adverse environmental impacts associated with the Bridge and in fact identified the bridge as a traffic mitigation measure that would relieve congestion otherwise projected for Third Street. The SEIR identified construction mitigation measures for the proposed Bridge that are typical for construction work in the water along the San Francisco Bay. Construction may not occur during herring season and "Best Management Practices", as determined by regulatory agencies (including Regional Water Quality Board, Coast Guard, Fish and Wildlife) are utilized to minimize turbidity of the water and prevent any construction materials debris from entering the Bay. Landside construction mitigations include "watering" the job site to reduce dust emissions, using filters to minimize erosion, and to monitor construction water run-off. Traffic signals will be installed at the intersections of Illinois Street and Marin Streets, and Cargo and Amador Streets to mitigate traffic circulation.

**Project Timeline**

The schedule for the Illinois Street Rail/Vehicle Bridge is presented below:

- September 25, 2001 – Port Commission approves framework for bridge construction.
- September 2001 –January 2002 – Due diligence and Community Outreach
- March 2002 - Deadline for Commission authorization of Catellus $1.8 million project funding contribution
- March, 2002 – Port Commission authorizes RFP to pre-qualify Design/Build firms to design and construct the Bridge
- October – November, 2002 - Select Design Build Firm
- November, 2002 – March, 2003 – Develop Bridge design and construction drawings
- January, 2003-August 2003 – Obtain required entitlements including from BCDC, US Coast Guard, and US Army Corp of Engineers.
- March, 2003 – October, 2003 – off site construction
- August 2003 – January, 2004 – on site construction
- February 2004 - Bridge construction completed

Prepared by: Diane Oshima, Manager, Waterfront Planning
David Beaupre, Waterfront Planner V

Attachments:
A – Illinois Bridge artist rendering
B – Map of existing and proposed rail route
C – Summary table comparing alternative Bridge alignments
D – Letter regarding diesel emission analysis for 1800 Illinois Street

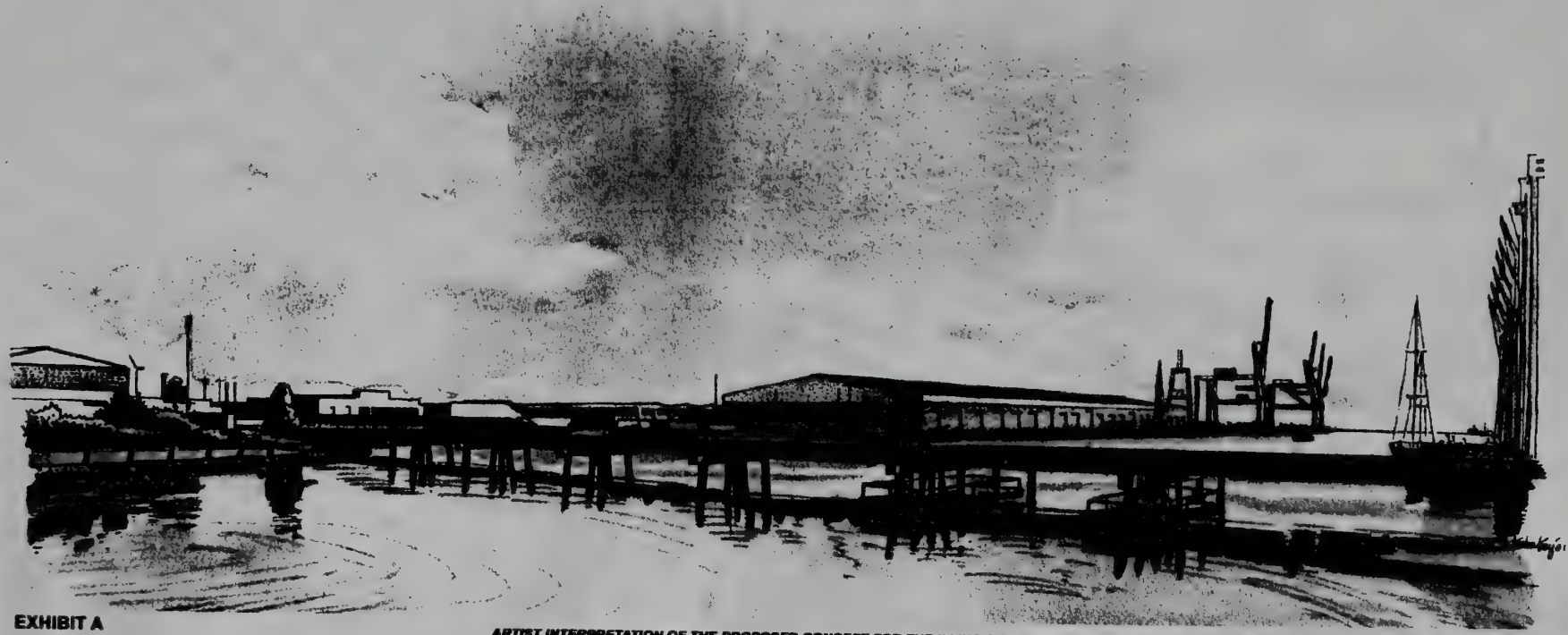


**EXHIBIT A**

***ARTIST INTERPRETATION OF THE PROPOSED CONCEPT FOR THE ILLINOIS STTREET BRIDGE***

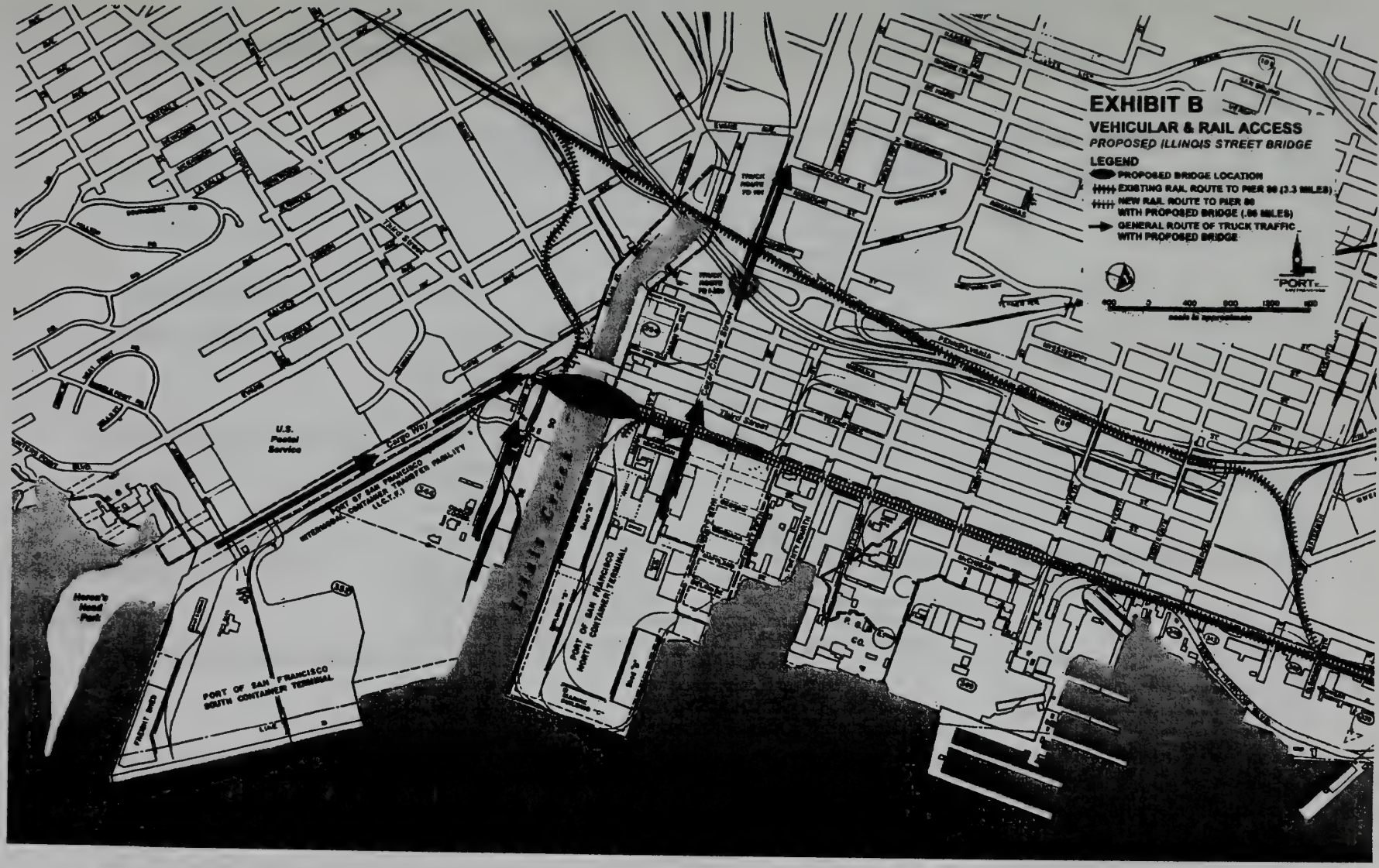


EXHIBIT B
VEHICULAR & RAIL ACCESS
PROPOSED ILLINOIS STREET BRIDGE
LEGEND
PROPOSED BRIDGE LOCATION
EXISTING RAIL ROUTE TO PIER 80 (3.3 MILES)
NEW RAIL ROUTE TO PIER 80 WITH PROPOSED BRIDGE (.86 MILES)
GENERAL ROUTE OF TRUCK TRAFFIC WITH PROPOSED BRIDGE
PORT
U.S. Postal Service
Cargo Way
Third Street
Islais Creek
PORT OF SAN FRANCISCO INTERMODAL CONTAINER TRANSFER FACILITY (I.C.T.F.)
PORT OF SAN FRANCISCO NORTH CONTAINER TERMINAL
PORT OF SAN FRANCISCO SOUTH CONTAINER TERMINAL
Heron's Head Park
PIER 80

# Comparison of Bridge Alignments

November 5, 2001

**EXHIBIT C**

| | Michigan Alignment A | Michigan Alignment B | Illinois Alignment |
|---|---|---|---|
| **Construction Cost (estimated)** | $14.7 million | $13.5 million (cost for razing bldg, etc. not included) | $11 million |
| **Land Acquistion Req'd?** | No | Yes; cost and schedule impacts unknown. Significant schedule impacts may put funding at risk | No |
| **Bay Fill Req'd (estimated)** | 16,200 s.f. | 14,700 s.f. | 11,600 s.f. |
| **Muwekma Ohlone Park** | Takes away shoreline area from shorelineoriented park; potential post-construction negative effects on habitat; access to remaining area of park is restricted from Illinois. | Takes away shoreline area from shorelineoriented park; potential post-construction negative effects on habitat; access to remaining area of park is restricted from Illinois. | Retains full park area while modifying access point from Illinois. |
| **Traffic Access from South of Creek** | Amador Street, access from Cargo Way restricted | Amador Street, access from Cargo Way restricted | Access can be designed from Cargo Way, as well as Amador |
| **Rail Access** | New tracks required north and south of creek; less rail access flexibility than Ill alignment | New tracks required north and south of creek; less rail access flexibility than Ill alignment | |
| **Truck queueing space and movements** | Cesar Chavez, WB to freeway, queuing is greater than w/Ill alignment; movements across CC (no signal here) could conflict with trucks queuing for entrance to Pier 80. | Cesar Chavez, WB to freeway, queuing is greater than w/Ill alignment; movements across CC (no signal here) could conflict with trucks queuing for entrance to Pier 80. | Allows for greater queuing of trucks entering Pier 80. |
| **Truck loading to Spencer Building** | Unaffected | Unaffected | Ill St regrade could create at-grade access to building (at all docks) and truck access across full width of street if necessary. |
| **Port Lease Revenues Impact s** | North: $293,000 /year loss<br>South: $62,000 / year loss | North: $254,000/year loss<br>South: $62,000 / year loss | North: None<br>South: $32,000 / year loss |
| **Parking** | No net change in # of spaces (relocation of spaces on Marin) | No net change in # of spaces (relocation of spaces on Marin) | No net change in # of spaces (relocation of spaces on Illinois between creek and Marin) |
| **Vehicular Traffic Movements** | Requires additional turning movements (2) to continue NB on Illinois. | Requires additional turning movements (2) to continue NB on Illinois. | Direct access NB on Illinois |

**EXHIBIT D**

ESA Environmental Science Associates

# MEMORANDUM

| | | |
|---|---|---|
| *TO* | • | Dianne Oshima<br>Johanna Evans |
| *FROM* | • | Bob Vranka |
| *DATE* | • | December 12, 2001 |
| *SUBJECT* | • | Air Quality Impacts at Warehouse on Illinois Street |

---

This memorandum describes the air quality impacts of particulate matter emissions at a nearby warehouse from trucks that would be traveling on the proposed Illinois Street bridge. The modeling that was carried out for this analysis supplements the previous modeling that was carried out in the Southern Waterfront Supplemental EIR which was certified in 2001. The EIR analyzed the impacts of diesel emissions on residential locations in the Bayview/Hunters Point neighborhood. Specialized modeling techniques are needed to simulate the complex air flow patterns around buildings in order to accurately estimate ambient air concentrations at these nearby locations. The methods that were used in the analysis and the impacts are described below.

The prevailing wind direction in the area is from the West, which means that particulate matter (dust) emissions from trucks traveling over the Illinois Street bridge will usually be transported out over the Bay and away from the warehouse. However, the airflow patterns immediately surrounding the warehouse building can be modified by the structure, and can cause re-circulation of some of the air near the building. For the past 30 years, EPA and other institutions have been conducting wind tunnel studies of air flow around buildings, and have determined that immediately downwind of a building a cavity can be formed which can re-circulate the air back near the building, before eventually being transported downwind. Any pollutants that are released into the cavity are uniformly mixed because of the turbulence induced by the building.

The EPA SCREEN3 model contains algorithms for calculating concentrations near buildings. These algorithms were derived from wind tunnel tests, and they are dependent on the building size and shape and its configuration relative to the wind. The SCREEN3 model was used to calculate concentrations of toxic diesel exhaust emissions at the edge of the building from the diesel trucks. These emissions were analyzed, because the California Office of Environmental Health Hazard Assessment (OEHHA) has determined particulate matter emissions from diesel engines to be carcinogenic. Estimates were also made for exposure to total particulate matter (road dust), based on the modeling results. Emissions from diesel exhaust and from dust caused by the truck traffic were derived from the average daily truck traffic on the proposed bridge and were determined in the previous analysis.

Since diesel particulate matter is a suspected carcinogen, the main issue is the long-term average (chronic) exposure to exhaust fumes. Epidemiological studies have concluded that chronic exposure (which under the worst case assumes a person is exposed to diesel exhaust of a given air concentration constantly for a 70 year lifetime) can lead to cancer. Based on this assumed exposure duration, OEHHA has established a unit risk value for diesel exhaust, which is the probability (or risk) that a

person could contract cancer. If a person were exposed to that concentration for a shorter duration, the probability of contracting cancer would be reduced accordingly.

For example, a worker who might be exposed to a given concentration for 40 hours per week over a 40 year working career, while being away from the exposure during the remainder of the time, would have a probability or risk of contracting cancer that is about 86% lower than the constant exposure for 70 years.

The SCREEN3 model calculates maximum short-term average concentrations (1-hr. average). These levels were then converted to annual average concentrations which were then combined with the OEHHA Unit Risk value to determine the health risks. The SCREEN3 model cavity calculations (attached) indicate that the maximum annual average concentration of diesel exhaust at the edge of the building (outdoors) from expected traffic on the bridge is 0.015 micrograms per cubic meter. Using the cancer potency value (unit risk ), as established for diesel exhaust of $3 \times 10^{-4}$/microgram per cubic meter by OEHHA, the maximum incremental risk is estimated to be 4.5 in a million. An incremental risk from a single project is considered to be significant if the incremental health risk exceeds 10 in a million. This is in the context of the average total risk of contracting cancer from other causes, which exceeds 200 thousand in a million.

The incremental risk estimate of 4.5 in a million is very conservative, and actual risks would be much lower. This estimate assumes that a person would constantly be at the worst case receptor (outside of the building) for 70 years. Concentrations inside the building would be considerably lower, especially because particles would be blocked from entering the building . EPA studies have shown that, for buildings with closed windows and no air intake fans, about 90% of the particulate matter would be prevented from entering the building (i.e., indoor concentrations would be 10% of outdoor levels). For buildings with forced air intake ventilation or with open windows, the indoor concentrations would be about 30% of outdoor levels. Therefore indoor concentration would be much less than calculated outdoor concentrations.

As stated above, dust can also be generated as the trucks are traveling on the paved road. These emissions, which are not carcinogenic, can occur from the entrainment of road dust and from tire and brake wear. Studies reported by California Air Resources Board (CARB) indicate that these emissions are about 12.8 times greater than particulate matter emissions from diesel exhaust. However, dust has not been considered to be carcinogen. Instead, exposure to levels much higher than diesel exhaust can cause respiratory problems.

The estimated short-term average (daily) and long-term average (annual) dust concentrations at the building edge from truck traffic were calculated by the SCREEN3 model to be 0.5 and 0.2 micrograms per cubic meter, respectively. These levels compare with the State ambient air Standards of 50 micrograms per cubic meter and 30 micrograms per cubic meter for total ambient air concentration exposure. The Bay Area Air Quality Air District (BAAQMD) has established thresholds for determining if a project's incremental contribution would be significant. These threshold levels are 5.0 micrograms per cubic meter (24-hr average) and 1.0 micrograms per cubic meter (annual average). Since the calculated contributions of 0.5 and 0.2 micrograms per cubic meter are much lower than the significance thresholds, the impacts would be less than significant.

**Exhibit IV**
**List of Community Meetings**

| Date | Group/ Meeting Sponsor |
|---|---|
| 7/30/01 | Southern Waterfront Advisory Committee (SWAC)/ Port |
| 8/1/01 | Maritime Commerce Advisory Committee (MCAC)/Port |
| 8/4/01 | Muwekma Ohlone Park Community/ David Erickson |
| 8/20/01 | SWAC/ Port |
| 9/6/01 | Southern Waterfront Community at Pier 80/ Port |
| 9/12/01 | MCAC/Port |
| 9/17/01 | SWAC/ Port |
| 9/ 25/01 | Port Commission hearing, action to preserve Mission Bay funding option/ Port |
| 9/25/01 | Central Waterfront Community – Better Neighborhoods Planning Workshop/ San Francisco Planning Department |
| 10/10/01 | MCAC/Port |
| 10/10/01 | Pier 70 Advisory Group/ Port |
| 10/15/01 | 1800 Illinois Street Owner & Tenants/ Port |
| 10/22/01 | Bayview Hunters Point Project Area Committee (BVHP-PAC) Land Use Committee/ BVHP PAC |
| 11/5/01 | 1800 Illinois Street Owner & Tenants/ Port |
| 11/14/01 | MCAC/Port |
| 12/18/01 | Southern Waterfront Community at Pier 1/ Port |
| 1/16/02 | BVHP Community- MUNI Third Street Light Rail and Nearby City Projects/ BVHP Community and MUNI |
| 2/12/02 | Port Commission Meeting, Informational Presentation |
| 3/21/02 | MCAC Meeting/Port |
| 7/10/02 | SWAC Meeting – Update on Illinois Street Bridge, Design, Process and Schedule |
| 9/19/02 | MCAC Meeting /Port |
| 10/02/02 | SWAC Meeting – Update on Illinois Street Bridge, Design, Process and Schedule |
| 12/04/02 | SWAC Meeting – Update on Illinois Street Bridge, Design, Process and Schedule |
| 12/17/02 | Port Commission Meeting |
| 01/08/03 | SWAC Meeting/Port |
| 05/27/03 | Port Commission Meeting, Informational Presentation |
| 08/06/03 | SWAC Meeting/Port |
| 8/11/03 | San Francisco Bay Conservation and Development Commission (BCDC) Design Review Board Meeting |
| 10/21/03 | BCDC- Engineering Criteria Review Board |
| 11/10/03 | BCDC- Design Review Board Meeting |
| 11/18/03 | Port Commission Meeting – Authorization to Award Contract |
| 12/04/04 | BCDC Commission Meeting –Public/ Informational Hearing |
| 01/15/04 | BCDC Commission Meeting |
| 04/05/04 | BCDC Design Review Committee |
| 04/26/04 | BCDC Engineering Design Criteria review Board |

DOCUMENTS DEPT.

JUN - 4 2004

SAN FRANCISCO
PUBLIC LIBRARY

# SAN FRANCISCO
# PORT COMMISSION

SF
PSS
#3
5/25/04

## MAY 25, 2004
## MINUTES OF THE MEETING

**MEMBERS, PORT COMMISSION**

HON. WILFRED HSU, PRESIDENT
HON. MICHAEL HARDEMAN, VICE PRESIDENT
HON. KIMBERLY BRANDON
HON. SUE BIERMAN

**MONIQUE MOYER, EXECUTIVE DIRECTOR**

# CITY & COUNTY OF SAN FRANCISCO
# PORT COMMISSION

## MINUTES OF THE REGULAR MEETING
## MAY 25, 2004

**1. ROLL CALL**

Commission President Wilfred Hsu called the meeting to order at 3:05 p.m. The following Commissioners were present: Wilfred Hsu, Michael Hardeman, and Kimberly Brandon. Commissioner Sue Bierman arrived at 3:20 p.m.

**2. APPROVAL OF MINUTES** - May 11, 2004 Meeting

ACTION: Commissioner Hardeman moved approval; Commissioner Brandon seconded the motion. All of the Commissioners were in favor; the minutes of the May 11, 2004 were adopted.

**3. ENGINEERING & MAINTENANCE**

A. Request to authorize Executive Director to appoint a committee to conduct building permit appeal hearings. (Resolution No. 04-42)

Alex Lee, Director of Engineering and Maintenance, requested Commission's authorization for the Executive Director to appoint a committee to conduct appeal hearing regarding building permits on an interim basis. By Resolution No. 80-112, the Commission authorized the Executive Director, the Chief Harbor engineer, and the senior civil engineer to issue building permits for work under Port's jurisdiction. The Port Engineering staff is currently developing a Port Building Code that would be based on the San Francisco Building Code and expected to be completed by October 2004. Staff will request Commission's approval of the Port Building Code. The new building code will have an appeal procedure through the Port Building Code Review Board. The Board will consist of technical and non-technical members with expertise in construction and permit issues. Pending the completion and adoption of the Port Building Code, the building permit decision for Port staff is subject to review by the Port Commission. Mr. Lee requested that the Commission authorize the Executive Director to appoint an interim committee to conduct building code appeal hearing in order to facilitate Port business and to improve Port property on a timely basis. The committee will have a minimum of three members appointed by the Executive Director including at least one non-Port member. They will serve on as-needed basis until the completion and adoption of the Port Building Code.

ACTION: Commissioner Hardeman moved approval; Commissioner Brandon seconded the motion. All of the Commissioners were in favor; Resolution No. 04-42 was adopted.

**4. REAL ESTATE**

A. Request for approval of CEQA Findings and five-year Lease with Sims Group USA Inc. for Space at Seawall Lot 349, Pier 70, at the foot of 20th Street, for Use as Metal Recycling and Transfer Center. (Resolution No. 04-43)

Jeff Bauer, Sr. Commercial Leasing Manager, indicated that Sims Group USA is a worldwide metal recycling operator and is proposing to establish a metal recycling collection and transfer center at SWL 349 at Pier 70, under a five-year lease with the Port, to receive recyclable materials for transfer to other Sims locations for final sorting and preparation. Preparation of materials would be minimal and would be moved from the premises within 17-72 hours. There would be no long-term storage or stock piling of materials. Inbound materials will be accepted from commercial, private and government sources only at SWL 359 and transported to Sims' processing facilities in Richmond and Redwood City. The premises are approximately 46,495 s.f. of unpaved land located at SWL 349. The permitted uses will be in accordance with the addendum to the Supplemental Environmental Impact Report issued by the San Francisco Planning Commission Office of Environmental Review. The term would be five years with a commencement date of June 1, 2004. The base rent would be $7,904 per month with annualized revenue of $94,848 with annual CPI adjustments. The tenant improvements are approximately $600,000. Sims would implement a stormwater pollution control plan. Sims proposal was presented and reviewed by the Pier 70 CAC on May 12th and received support from the CAC. The CEQA findings have been completed with associated mitigation measures, monitoring and reporting program. Mr. Bauer requested Commission's approval of the CEQA findings and five-year lease with Sims for space at SWL 349.

Toby Levine, co-chair of the Pier 70 Advisory Group, indicated that the CAC supports this project. Sims is the first company that has gone through the new revised Leasing Screening Program which the Port has introduced. This program will be valuable in terms of trying to get the best possible candidate to occupy Port lands. Sims appears to be very community minded and had a lot of community support. In order to make the Pier 70 situation work, it is critical that 22nd Street be opened for truck traffic and traffic coming and going to and from the auto tow, Sims and the Marshalling Yard. Currently, there is only one way in and out. As a result, there is an enormous bottleneck along 20th Street which can only get worse as the cruise ship industry grows and the Pier 70 Opportunity Area is developed. The Port needs to figure out how to bring 22nd Street into the Pier 70 area in order to relieve the bottleneck.

Two of the CAC members expressed concern about adding another recycling operation at Pier 70. Everybody recognizes that recycling is an important activity; something that is needed in the City but must be well managed. Currently, there is a situation at Pier 70 of a recycling institution that's not doing the best possible job, which tainted Sims application. However, after much discussion, it was agreed that the other recycling company would be moved away to a different location in Pier 70 where they wouldn't be creating so much environmental dust and environmental problems. With those two things in mind, Sims Group is going to be a good tenant for the Port.

Commissioner Hardeman commented that he has received numerous words of encouragement from members of the public regarding this project and Sims Group. He

was glad to see this item finally on the agenda as it is a wonderful proposal.

Commissioner Brandon asked for more information regarding the pre-leasing screening program since it's the first time she's heard of it. Commissioner Brandon also noted that Mrs. Levine mentioned in her letter the commitment to hire locally from the Bayview Hunter's Point area. She hopes that commitment is followed through.

Mr. Bauer replied that the community benefits are not memorialized in the lease because Sims is subject to collective bargaining. However, they have met with the Young Community Developers at Hunter's Point and made commitments to start a job program and hire local youth. They have also met with the local union to get their approval.

Mr. Bauer indicated that the pre-leasing screening program is generally a way for the Port to give the Pier 70 advisory committee a heads-up on potential users, to answer questions and to head off any type of issues that may present themselves to become an issue.

Commissioner Hardeman congratulated Mr. Bauer for all his efforts on this project.

ACTION: Commissioner Brandon moved approval; Commissioner Hardeman seconded the motion. All of the Commissioners were in favor; Resolution No. 04-43 was adopted.

**5. EXECUTIVE**

A. Executive Director's Report: Executive Director Monique Moyer reported the following:

- Regional Water Quality Control Board's (RWQCB) approval of the Port's Storm Water Management Plan. On May 11, 2004, the RWQCB approved the Port's Storm Water Management Plan. The Port is only the second jurisdiction to receive the approval without a challenge. This is due to the work of staff and the dedicated community. The Port Storm Water Management Plan is distinct from that being developed by the Public Utilities Commission. The Port is collaborating with PUC so the two will go hand in hand but the Port retains jurisdiction and obligation on those issues. Ms. Moyer commended everyone who worked on this plan to bring it to fruition.

- KFOG Kaboom Concert and Fireworks Display on the Waterfront. The 11th annual KFOG Kaboom event was a success. The event attracted over 350,000 people to the waterfront. The neighboring tenants indicated that they had excellent foot traffic and hopefully revenues for the weekend. The music of Train, the Waifs and Robert Randolph and the Family Band were featured. It was a very nice event and a nice publicity for the Port.

- Ocean Disposal of Pier 35 Dredge Material Reduces Costs
  Through the hard work of Jay Ach and others, they worked on a pilot project in looking at the composition of materials dredged at Pier 35. There are different options for disposing the materials depending upon the nature of the material, some more expensive than others. Working on this pilot program, staff was able to save the Port almost $250,000. She commended staff for their efforts on this program.

B. Request for approval of resolution establishing salary for Port Executive Director for Fiscal Year 2004/2005 pursuant to Charter Section B 3.581(h). (Resolution No. 04-44)

Kathy Mallegni, Human Resources Director, indicated that the City Charter grants the Port Commission the exclusive authority to set the salary of the Port Director. The Charter provides that the salary of the Director will not exceed prevailing salary paid to those holding similar positions in comparable maritime employment. As has been its practice, staff surveyed the seven major West Coast Ports to determine the salaries paid to executive directors. There were four ports that manage seaport only and three that have combined sea and airport operations. The average salary paid to executive directors at the seaports only is $210,515. For comparison purposes, staff surveyed the salaries of the directors of City enterprise agencies including PUC, the airport and the Department of Transportation. The average salary of those directors is $237,408. The current salary of the Port Director is $186,212. The Port Director has requested an annual salary of $200,000 per year beginning July 1, 2004. This requested salary is within the Charter limitation. In addition to salary, the benefits are also included as part of compensation. It has been the Port's practice to grant the Port Director the same benefits and working conditions as provided for in the collective bargaining agreement with managers and supervisors represented by the Municipal Executives Association. Ms. Mallegni requested Commission's approval of the recommended salary as well as continue its practice of granting the same benefits to the Port Director as provided for Executive Managers represented by MEA.

Frank Martin Del Campo, Local 790, indicated that the obligations of his duties require him to raise concerns on behalf of the lowest paid workers, largely women and minorities whose jobs are often overlooked. It seems that the proposed salary, with no disrespect to the hard work of the executive director, is simply not justifiable. It seems that while the rising tide may raise all boats, the ebbing tide seems to just take out the small boats and leave the big boats at port. He does not think that this is the right policy during tough budgetary years. He understood that the basis for the raise was that similar positions doing comparable duties are paid more. His cursory review of the documents before the Commission indicates a discrepancy in the number of employees at seaports only. One of the things that may have been overlooked is tonnage - how much get passed through the port or some other measure to determine the volume, not only the comparable position. In conclusion, approval of this item would send the wrong message throughout the port where the ebbing tide would safely secure the position of the captain of the ship while those that staff the ship are left to seek refuge by jumping overboard. He urged the Commission not to approve the item in its present form and be sent back to staff for revision. Mr. Del Campo indicated that Mauricio Rodriguez is back to work at the Port. He thanked the Commission and the Port for taking hiring him back.

Charlie Walker, Bayview Hunter's Point, indicated that it would be prudent for the Commission to approve this item. He does not see any reason why the Port should have the lowest paid director in America. A good director deserves a decent salary.

ACTION: Commissioner Hardeman moved approval; Commissioner Brandon seconded the motion. All of the Commissioners were in favor; Resolution No. 04-44 was adopted.

Ms. Moyer thanked the Commission for recognizing the enormity of the job that she has undertaken and valuing it, which she believes is a fair valuation. Nonetheless, this is a very tough financial time for the Port. She will be donating 15% ($30,000) of her salary back to the Port's general fund in order to help save some positions and to move the Port forward as she believes it should be done. She has also declined and will sell the Executive Director's car and hopes to receive about $20,000 for it. In this fiscal year alone, the Executive Director's car cost the Port about $6,000 in miscellaneous expenses. In this coming fiscal year, she is hoping to return approximately $55,000 to the Port.

Commissioner Wilfred Hsu thanked Ms. Moyer for making personal sacrifices and her generous donation to the Port.

C. Request for approval of the Revised FY 2004/05 Port Operating Budget. (Resolution No. 04-45)

Executive Director Monique Moyer indicated that it is unusual for a department or an enterprise to rehear its budget in advance of the Mayor releasing its budget, which is on June 1st. All of the other commissions will be advised after the release of the Mayor's budget as to what changes were made in the budget negotiations with the Mayor's office to their respective budgets. However, the reason that this item is before the Commission today is because she has made changes as well as the Mayor's office to the budget that the Commission approved in February of this year. It is imperative that the Commission has a chance to view those changes before they become part of the Mayor's aggregate budget on June 1st. She and the new chief financial officer, in their short time at the Port, tried to revamp the budget as best as they could. It is her plan to ask the Board of Supervisors to put half of the budget on reserve so that it would give staff time to make sure that we know where our needs are and that they are appropriately funded. When she looked at the Port's financial situation, she was very concerned that the Port has been in a structural deficit for three years running. In the budget approved by the Commission and the Board of Supervisors last fiscal year, there is a table which projected the next five fiscal years which projected not only the continuance of the structural deficit but an exacerbation of it. If you look at how the Port balances its budget, it looks at total revenues and then it calculates its total expenses, salaries, fringe, others and debt service. Everything else falls below that line. Approximately 3 years dating back to 2001-2002, the Port has been balancing operating revenues to operating expenses and ignoring the fact that dredging must be done on an annual basis to support its operation and contractual obligation to make a payment to the Special Area Plan, which is a recurring expense. In addition, there is also a need to do ongoing maintenance and capital outlay. Among many of her concerns is the fact that those three items alone total $7 million which is not covered by our operating revenues on an annual basis. Each and every year, the Port has been going into its fund balance and take down a minimum of $5 million for dredging and the Special Area Plan payment. Anything above and beyond that is taken out of its reserves. In her view, while they are capitalized costs pursuant to generally accepted accounting practices, they are recurring expenses for which staff should be planning. Otherwise, it won't take long before the Port runs out of its reserves. At the last Commission meeting, the Commission approved a payment on a judgement which was also taken out of reserves. Ideally, what would be fiscally prudent would be to get $7 million of spending above the line. The operating revenues would cover those expenses and everything below the line

would be reserved for purposes of maintaining our facilities, for emergencies, for litigation and others. Ideally, the Port would have a 25% reserve for capital emergencies and other emergencies that are consistent with what some of the other enterprise agencies are either achieving or attempting to achieve. She is proposing that the Port have 20% reserve, which is approximately $13 million. Ideally, it is her goal that the Port would have a line item going forward in the operating budget for repair and replacement. There is no such line item even for the smallest of projects. Any repair/replacement that needs to done is constituted as a capital project and we are only able to fund that project if we have a good year, two years prior. By way of example, the airport retains a line item in its operating budget for all capital projects, repair/replacement projects of $100,000 or less. The line item is a couple million dollars but it covers projects of that nature. She proposes that the Commission approve the budget today with some modifications. There are many assumptions in the proposed budget that she characterizes as optimistic, more optimistic than she would normally be comfortable. But when the tradeoff is between optimism and a position that is badly needed at the Port, she chose optimism. As an example, the Port is slated to do a refinancing of the its debt and staff has programmed the savings into the budget even though the savings have not occurred. Interest rates have been climbing rapidly and each day that goes by, our savings get lower and lower. All the changes made to the budget are on the expenditure side. Staff was not able to change the revenue side at this point and time. Primarily, the bulk of our revenues are contractually based. Staff made assumptions as to what percentage rent will be and will stay within those assumptions for the purposes of this budget.

With respect to salaries and benefits, staff is proposing a reduction in this budget of $750,000 that represents ten months of savings from positions that will be eliminated. The bulk of the positions to be eliminated are vacant positions. They total in the aggregate 20 positions. However, the positions will either be reclassified or transferred so the net effect would be a loss of 15 positions; 9 of those positions are filled by personnel. She believes that all but one of staff has been notified of the layoffs. Another change to the budget is what the City charges as an overhead rate to all of the departments. The overhead rate is estimated and every so often there is a true up and in this year, the true up resulted in monies being owed to the Port. While our normal obligations would be half a million dollars, the true up for a couple of years running has given the Port back $800,000. Staff was able to save a couple more positions with those savings. This is where she is being optimistic, she does not expect those savings to occur again next year. It is her hope that the combination of revenues and refinancing will allow the Port to retain its personnel as proposed. The other line item of note is that the Mayor's office has informed the Port to contribute to the fireboat. Staff has not had a chance to talk to the Mayor's office as to what their justification is but will do so in the coming weeks. One of the issues that will be brought back to the Commission is the finalization of its nexus study which will better match the services that the Port is receiving from the City with the expense that it pays for them. At that point and time, staff hopes to better address the fireboat issue. Lastly, staff was asked to reduce the cost of dredging in this year and this year alone from $3.65 million to $2 million. This was done in part because of the savings reported earlier ($200,000 not a $1.65 million). This is a one-time savings. Staff needs to spend more closely the $3 million next year. She is being optimistic as to how the savings in this year can be leverage this year. All told, it's $2.5 million reduced expenses versus the budget the Commission approved in February. She noted that there is an error in the staff report.

The first line says that the Port's fiscal year has a budgeted surplus of $127,000. In fact, it has a budgeted deficit of $1,283,564.

Charles Chase, Executive Director of San Francisco Architectural Heritage, indicated that they recognize that these are difficult times for all parties in San Francisco, particularly at the Port with the City facing a budget deficit. They are extremely concerned that the elimination of the planning position currently held by Mark Paez, who has a specialty in historic preservation resources management, is going to have a slowing effect on the ability to effect the use of the federal investment tax credits which is equivalent to 20% of the rehabilitation costs for historic resources along the waterfront. For the five years since the development of the Special Area Waterfront Plan, the Port has been mandated to produce a National Register Nomination which will ultimately be completed which they hope the Commission will review in June and forwarded to the State and Federal authorities to certify. This means a major economic impact and a flexibility in the utilization of Port resources. He believes that the elimination of Mr. Paez's position will have a slowing effect on affecting those development opportunities. He believes an in-house qualified preservation specialist benefits the development and neighborhood communities alike. Only a full-time staff position can provide to the citizens advisory committees and interested citizens direct access to clear reliable information in a timely manner. Consultant services do not fully cover these essential services and are time limited and require a cumbersome and protracted procurement process. Today, the Port has a highly qualified individual who has assisted the decision making process, evaluated, and reviewed the treatment of the Port's historic resources. It would be appropriate to retain that position to help eliminate another issue like Wharf J-10 or the disposal of contributing resources such as the pile rigs. He urged the Commission to ask the Executive director to reconsider the elimination of this position. He believes that it is one that is valuable to the Port and to the activities that benefit all citizens of San Francisco and help the rehabilitation of the waterfront resources become a reality.

Ms. Moyer clarified that Mr. Paez's position is with the Planning Department. He has been work ordered to the Port for the purpose of assisting staff with regards to the National Historic Register. She does not believe that this in any way changes the sentiments of Mr. Chase. She clarified that Mr. Paez's position is not a Port position although the proposed budget would eliminate the funding of the work order.

Commissioner Bierman asked for further clarification. Ms. Moyer clarified that Mr. Paez is an employee of the Planning Department. He is on loan to the Port. It is her understanding that his position is not being eliminated from the Planning Department budget. However, the funding from which the Port has used to borrow him, is being proposed to be eliminated. When the work order was approved, it was done on a temporary basis to help Port staff with the planning. It was not intended that Mr. Paez would become a permanent employee of the Port. His position is with the Planning Department.

Commissioner Bierman asked if he would continue with the Planning Department. Ms. Moyer replied that it is her understanding that he would but not doing historic preservation for the Port unless we were to work order funds to borrow him again.

Commissioner Bierman asked if we could borrow him again. Ms. Moyer replied that the positions and the funding that she is recommending was done with the input of all of the deputy directors. As it is represented to her, the work that we retain Mr. Paez to do has been or is near completion. If we don't do that, then we would continue a work order for an employee who is not the Port's but yet let a Port employee go.

Commissioner Bierman asked if the project will not be completed. Ms. Moyer replied that the Commission is scheduled to hear the item and to vote on the item on June 22nd. There is concern, of course, at least as expressed to her externally at how it will be implemented. Gathering from Mr. Chase's comments that he would prefer that we not rely on our existing staff but rather rely on the services of Mr. Paez.

Ms. Toby Levine, chair of the Northeast Waterfront Group and co-chair of the Pier 70 CAC, indicated that she only learned about the situation with Mr. Paez last evening. It is something that the Commission needs to think about. There will be a need to follow up and there will a need for implementation. Furthermore, Pier 70 is equally important or more important in terms of the fact that some of the buildings are even more historic than the ones in the northeast waterfront. The question is will the Port save money by hiring or outsourcing the effort to complete this project and to bring Pier 70 into the National Register and therefore entitle the Port to the tax credit or do you want to continue with somebody who has known expertise and is greatly admired not only by the historic community but also the citizens who are involved with historic preservation at the Port. If the Commission approves the elimination of Mr. Paez, staff needs to figure out how it will continue its historic preservation effort to implement the Waterfront Land Use Plan.

Ms. Corinne Woods, member of Pier 70 CAC, indicated that they have worked with Mr. Paez for several years. She feels that it would be shortsighted to eliminate him as we start with the master planning process for Pier 70 and getting to the point of characterizing the buildings and figuring out how to get the historic tax credits to encourage development. To rely on outside consultants which takes months to get on board is not prudent and it would certainly cost more. She asked the Commission to figure out a way to work order Mark's salary and keep him to do the northern waterfront work and Pier 70.

Gee Gee Platt, Historic Preservation Consultant and working as a volunteer with the Port, indicated that the Historic Preservation Architectural firms that are working with the Port in various pier projects and Pier 70 feel that the loss of Mark Paez as a Port employee would be devastating for them. There doesn't seem to be anybody else on the Port staff that understands historic preservation. The developers that are working on those areas and others will come to the Commission because they want the tax credits. One of the reason for doing the National Register Nomination is to ease the time frames. Without Mr. Paez working at the Port, that work will lag. There's nobody else on Port staff that understands all the issues and nobody else on the staff that can serve as a liaison between State and Federal reviewers the way he can. She gave the Commission a copy of a letter from the Telegraph Hill Dwellers who are very concerned about this situation. She emphasized that the Port will spend more money hiring somebody to work on occasion rather than having someone from staff. The Commission also won't have the dedication it needs to advise them on what will come along later. She asked the Commission to look at this very carefully and see about keeping Mr. Paez. He can go back to the Planning Department but

they would feel more comfortable having someone with his credentials here at the Port.

Joe Boss concurred with the speakers' comments about Mark Paez's position. Whether or not it could be modified, it may not have to be full time. What Mark brings is years of experience of dealing with all the components in the City. He has been working hard to get funding released to get the Pier 70 plan and the backlands plan. Both of those have elements of historic resources. To put that out on a contract and to bring those people up to speed might not be the greatest economy. Obviously, the Port has a tough budget that needs to be chopped down. He believes that some thought needs to be given to retain part of Mr. Paez's services.

Tim Kelley, member of the Northern Waterfront National Register District Citizens Advisory Committee, indicated that he has not always agreed with Mr. Paez but he has always respective him. He has been an extremely good advocate for the Port through this process. The project is far from finished or not even at a stage to take a pause. He strongly urged the Commission to think about keeping the continuity for this project.

Gary Silvestri, Port Maintenance employee, indicated that about a week and a half ago, they were at a meet and greet with the new director and someone asked a question about layoffs. The director invited staff to come to the meeting today as she was going to clarify the situation. He heard about the number of positions that will be reclassified and eliminated but he asked for more specifics as there are many rumors running rampant in the maintenance office.

Ms. Moyer replied that with respect to the rumors, it is her understanding that Port staff that are affected by the layoffs have been notified. If there are members of the staff that have not been notified, that's probably because they're not being laid off. In the department of real estate, one assistant deputy director, a filled position, will be laid off. In the department of Engineering & Maintenance, an associate engineer, an architect, a materials testing tech, a maintenance machinist supervisor and maintenance manager will be laid off. In Administrative Services, an IS Administrator, an IS Manager and a Financial Manager will be laid off. A total of nine filled positions will be laid off. In Engineering & Maintenance, a senior engineer and a principal administrative analyst will be reclassified. In terms of vacant positions that will not be filled: a property manager in Real Estate; an Assistant Deputy Director in Planning; an Executive Secretary in Maritime; a Chief Building Inspector, asphalt finisher supervisor and a plumber in Engineering & Maintenance; and a Sr. Personnel Analyst and a secretary in Administrative Services. There are also 8 positions in the Maintenance Division which are capital funded some of which we worked hard to retain but not all. In the capital budget positions which have not and were not included in the Administrative Salary Ordinance (ASO), seven positions will be eliminated: a maintenance machinist, two electricians, plumber, general laborer, pile driver and pile driver supervisor.

Commissioner Bierman stated that she's always sad when somebody is going to be laid off. In the case of historic preservation, she asked if there will be another staff person with experience to handle the project. Ms. Moyer stated that we do have the staff resources. She was interested in the conversation today because it's the first she's heard of outsourcing. It was interesting that there were so many speakers but yet she had not

received a phone call from Mr. Paez. There were speakers for Mr. Paez and yet he is not losing his job. It was interesting that there were no speakers for the employees who are losing their jobs. Those are all decisions that as Executive Director she has had to make. That is not to say that the Port's process with respect to historic preservation would cease and desist or that we cannot reallocate our resources. Accordingly, that will be done in all divisions. We have had seven or more years of good times in which we have been able to afford a lot of luxuries and those times have passed.

Commissioner Bierman asked if Mr. Paez is not being laid off. Ms. Moyer replied that he is not a Port employee, he is not being laid off. He is an employee of the Planning Department. The Port contracted with the Planning Department to perform a service for the Port. In order to preserve the positions of Port employees who have equity in those positions, we would have to make do and absorb those responsibilities within staff that we have. In all respects that we are going to be losing positions in Real Estate, Maintenance and filled positions in Administrative Services, every one of those positions contribute to the Port today.

Commissioner Bierman asked if there would be someone at the Port who would be able to deal with the historic issue. Ms. Moyer replied that she personally has some experience with tax credits. She hopes that would help; she does not have all the requisite experience but there are members of staff who have experience. Mr. Paez is not losing his position; he is not going away. If we find that we need to contract out for services, that's where we would look first as we have in the past. A decision was made sometime ago that was not a full time permanent position at the Port. It's simply a borrowed expertise.

Mr. Frank Martin Del Campo indicated that the Executive Director has just revealed that the Executive Secretary position at Maritime Division is being eliminated. That was a position that was held by Senaite Shifferaw, a shop steward. They currently have a pending grievance asking her to return to the Port.

Ms. Moyer replied that it is not her position.

Mr. Del Campo asked if it is a 790 position. Ms. Moyer replied that it is a 790 position that is vacant. Mr. Del Campo asked what Senaite Shifferaw's position is. Ms. Moyer replied that off the top of her head, she does not know but she knows that it's not being eliminated. Mr. Del Campo asked if it's currently in the budget and will remain so. Ms. Moyer replied that it is currently in the budget if the budget is approved in the form today. Ms. Moyer clarified that those employees that have been affected have been personally notified. Mr. Del Campo indicated that she's not at the Port.

Commissioner Hardeman commented that he was the president of the Commission two prior budgets ago. At that time, he informed both the Director and Mayor Brown that he would not support any cuts in staff. We were able to get through those times without lay off. Time has come where we don't have a choice. Ms. Moyer has come in at a very difficult time. She has not taken a hatchet to this problem but has taken a scalpel. He supports the motion that is before the Commission.

Commissioner Brandon indicated that it's always hard to see budget cuts but she's happy

that Director Moyer was able to lower the initial number of people that was going to be laid off. She's making her own sacrifices just to keep some positions at the Port. The Commission never wants to support layoffs and don't want anyone to lose their jobs but if the Port is going to stay afloat and keep the existing 200+ employees employed at the Port, the cuts must be made.

Commissioner Hsu concurred with Commissioner Brandon's comments. While it is always tough to see positions eliminated and people get laid off and families get affected, he acknowledged Ms. Moyer's generosity in making personal sacrifices just to save some of the positions. It is a difficult time for the Port. If you are on a boat and the boat is sinking, we have to dump some precious cargo in order to keep the boat afloat. He recognized Ms. Moyer's tough job ahead of her and recognizes her ability in making it tolerable for everybody involved.

ACTION: Commissioner Hardeman moved approval; Commissioner Brandon seconded the motion. All of the Commissioners were in favor; Resolution No. 04-45 was adopted.

## 6. ADMINISTRATIVE SERVICES

A. Request for approval of a Supplemental Appropriation request to authorize expenditure of $9,998,139 to provide the additional funding necessary to issue a notice to proceed to Shimmick Construction for Phase II and Alternates 3, 4 and 5 of Contract No. 2680 for design-build services for the new Illinois Street Bridge to provide for rail/vehicular/ pedestrian crossing of Islais Creek. (Resolution No. 04-46)

Executive Director Moyer thanked Commissioner Brandon for requesting that this item be presented to the Commission. This is the sixth time that the Commission has discussed the bridge since October 1999. The purpose of this item is to discuss the funding of the bridge rather than revisiting the need for the bridge, which the Commission has done in many prior meetings. There has been some chatter with respect to the cost of the bridge and the funding for the bridge. It is also required that the funding for the bridge be appropriated by the Board of Supervisors. Bids were issued and awarded and the bid price for the majority of the contract will expire on July 10, 2004, which is why this item is being singled out from the regular 2004/2005 capital plan. Table 2 on page 4 of the staff report lists the cost to the bridge including contingency ($22,456,000). Exhibit II of the staff report lists the funding sources and what has been funded to date. To date, the planning, conceptual engineering and environmental studies have been completed for approximately $1 million. To date, approximately $6 million+ has been appropriated towards the $22 million in total cost. Much of that money comes from non-discretionary sources, meaning that if we were to choose not to proceed with the project, the money would evaporate. It is not available to the Port to reassign discretionarily. $2 million of the money comes from the S.F. Transportation Authority and other grant sources are enumerated in the staff report. Part of the money comes from the Mission Bay Agreement with the City, the Redevelopment Agency, the Port and Catellus. As part of the mitigations, the Port agreed to build the bridge with funding from Catellus. If the bridge is not built, Catellus is obligated to do something else and the funding would not be available to the Port to program to some other use. Likewise, some of the funding comes from mitigation fees that have been imposed upon tenants in the southeast waterfront, specifically in the Pier 80 and 94/96

region. $3.5 million comes from the Port Capital budget. That was taken into account with respect to the budget item that was just heard. The $3.5 million is discretionary. If the Port Commission decided not to proceed with this item, the $3.5 million would be available for other uses. The Port Capital Budget is $3.5 million, the Catellus contribution is $4.3 million and the mitigation fees from the Port tenants is $2.1 million, for a total of $9.9 million. This would bring the total funding available to the project to $18.8 million, leaving a funding gap of $3.6 million. This is a salient point and one of the purposes of having this item today. The $3.6 million is the money that is identified under the construction bid as Alternative 1 and Alternative 2, the approaches to the bridge. If the Commission determines to proceed with this item, staff will still have to seek funding to build the approaches that are not yet funded. However, Port staff has worked hard to identify approximately $6 million in potential sources. Staff is optimistic that the money will be there when we need it but it is not guaranteed.

Jasper Rubin, Planning Department, offered support for the Illinois Street Bridge and to encourage the Port to move forward with the funding. The Planning Department has been working closely with the Port in planning the area as part of the central waterfront neighborhood plan which is part of the Better Neighborhood Program. The bridge is important in the planning work: (1) Truck routing. The Third Street Light Rail is under construction. The plan is to move truck routing to Illinois Street. This has been a condition that has been a consideration in their planning efforts for that work. For the truck routing to be successful, the bridge plays an important role. (2) It is important for pedestrian and bike circulation. They have also been coordinating with the Port and DPT for bicycle route planning for Illinois Street. This also relates to the success of the bridge and making sure that pedestrian and bicycle modes of transportation have access to Illinois Street Bridge. The bike route down Illinois will only be successful if bikes have access across Islais Creek across the bridge. As Illinois Street is also part of the bay trail, the Central Waterfront Neighborhood Plan is cognizant of the fact that the bay trail runs along Illinois Street. It makes sense that it goes down Illinois to the bridge, the pedestrians would have access to the bridge. Generally, the bridge is important to basic circulation issues.

David Gavrich, LB Railco, operator of the short line railroad at the Intermodal Container Transfer Facility (ICTF) at Third Street, indicated that they operate two locomotives and they interchange with the Union Pacific Railroad along Cargo Way. Recently, they were awarded two Carl Moyer Clean Air Grants from the Bay Area Air Quality Management District out of a total of 16 grants given in the Bay Area, to put two new engines in their machines for cleaner air in the neighborhood. In addition to moving rail cars in the ICTF and to and from the docks, they also train people in railroad related positions including engineers. These are not just jobs, they are high paying careers. They have trained local Bayview Hunter's Point residents. All their current full-time locomotive engineers are Bayview Hunter's Point residents and literally walk to work at ICTF. The faith of Pier 80 is tied intricately to the Illinois Street Bridge. Without a good rail connection to the national rail grid, the network through Union Pacific, Pier 80 would no longer be a viable breakbulk or bulk terminal for the future. This is a project that will preserve the economic vitality of Pier 80 for the future for the next hundred years and beyond, which is truly the life of the bridge. Catellus may, if this bridge does not go through, have to be responsible for putting the rail back in through Mission Bay. As an operator of trains down Illinois Street and back to Mission Bay from Pier 80, it is definitely not an ideal route from an

environmental standpoint. The bridge needs to be viewed as a hundred-year capital project. As viewed in that regard, the price paid would preserve Pier 80, a major asset of the Port. It would be used to relieve congestion in this neighborhood, which is a highly impacted neighborhood, and it will allow the Port to be viewed as a player in maritime for the future. It would be a shame to squander the opportunity during this administration. He encouraged the Commission to proceed with the building of the bridge.

Ms. Corinne Woods indicated that the Illinois Street Bridge is critical not only to the southern waterfront and possibly Pier 70 but also to the success of Mission Bay because by contract, if the Illinois Street Bridge does not exist, Catellus has to run freight rail to the maritime piers up to and including Pier 48 and 50 through the connection up to 16th Street back down to Mission Bay down to Illinois Street down to Pier 80. It would be an incredible mess and it doesn't make sense which is why Catellus is willing to kick in money to avoid it. The Port shouldn't wait as with every other bridge project in the bay area, the longer we wait, the more expensive it gets. The price of steel is skyrocketing. If we postpone it, we are not looking at saving any money but spending more.

Bobby Guillory, member of the Maritime Commerce Advisory Committee and former member of the Southern Waterfront Advisory Committee and member of the ILWU, asked the Commission to fund this bridge. This bridge is vital to the economic well being of Pier 80. It is also vital to reduce emissions into the neighborhood. As members of the community reiterated time and time again that they are exposed to diesel emissions from all the trucks idling and using the Third Street corridor. The Illinois Street bridge would provide an alternate route. The faster transit of the trucks through the community would greatly benefit the environment. The efficiency of the new bridge with respect to rail service would be instrumental in attracting new clients to Pier 80 and to the Port. With the looming increase in fuel, trucks are becoming less of a viable option from moving cargo and rail would be a very efficient and cheaper alternative.

Julia Viera, resident of the Bayview District and veteran of the original Waterfront Plan Advisory Board and a founder of the Friends of Islais Creek, has been working on these issues for 15 years. She indicated that they would be very happy to see this bridge built as soon as possible. The friends of Islais Creek always believe that the City should have whatever infrastructure it needs as long as it is beautifully designed and creates public access. All those issues have been covered very carefully by the Port Planning staff and the bridge will open so that the waterway will not be closed. She did not realize that Shimmick is the chosen company for this project. They have been very good to them in the past and they will look to them again in the future.

Joe Boss indicated that the only thing controversial about the Illinois Street Bridge was how it was characterized in the Port audit. It was an unfortunate, shortsighted mischaracterization. It missed the fact that it started out as just a rail only bridge that wasn't moveable to a bridge which is truck, rail, pedestrian, bikes, good design, BCDC approved, etc. Any reluctance to move this forward could potentially jeopardize the federal money that we are very closed to getting to complete the whole project. He assured the Commission that all the speakers would be more than happy to walk the halls at City Hall to make sure that the Board of Supervisors thinks and understands how important the Illinois Street Bridge is.

Karen Pierce, chair of the Southern Waterfront Advisory Committee, agreed with all the statements that have been made so far. She commended staff for the wonderful job they have done on this bridge. One couldn't imagine the number of miserable meetings they've gone through to get to this point. The SWAC voted in favor of this project however, she was the lone vote against it. It has nothing to do with the project or the design. She hopes that the Commission go forward with approving this request today. Her issue is environmental justice. The reason why we have this bridge is because we need to reconfigure the way the train tracks that traditionally ran all the way down to 16th Street and come back around. We are getting $4.+ million from Catellus. It is perceived that is some gift from Catellus. In fact, that's money they would have to expend if we don't have this bridge because they took that rail out and they'll have to put the rail back because it is needed. The Bayview Hunter's Point residents feel that Catellus is getting greater benefits than simply having to replace the rail. They will receive more millions of dollars than the $3.6 million that we're short. The Bayview Hunter's Point Community Advocates, an environmental justice organization, recommends that the Port seek that funding from Catellus. They are getting greater benefits and Bayview is getting a detriment. Bayview Hunters Point is taking all of the environmental impacts so that Mission Bay can have a pristine neighborhood. They need to pay more than just what they would otherwise be obligated to pay as mitigation for this bridge. She asked the Commission to have staff go back to Catellus and look for ways to get additional funding since they are getting more benefits than what is reflected.

Commissioner Bierman indicated that Karen Pierce has been around a few times and she hopes that staff will follow through her recommendation.

Ms. Moyer replied that there's a multiplier effect of benefit but the deal was negotiated by the City and not the Port. It would be up to the Mayor if he wanted to reopen it but she will certainly express that concern.

Laura Thompson, Association of Bay Area Governments and the Bay Trail Project, supports the supplemental appropriation and construction of the Illinois Street Bridge. It is a key piece in the Bay Trail and a proposed segment of the San Francisco Bicycle Network. The bridge would serve to improve circulation of all modes in this area. The ABAG Bay Trail Grant program is identified in the staff report as a possible funding source. She will continue to work with Port staff on a possible construction grant if needed.

Charlie Walker indicated that he supports the bridge project. This project has been going on for a long time. They were told by Muni that the bridge will divert some of the traffic from the light rail. They were informed by Muni that are working with the Port on this project. The bridge should be ready when the light rail is ready otherwise the trucks will tear up the place. There will be bottleneck on Cargo Way. Something needs to be done instantly to get the bridge underway. It will be a year or less before some of the trains start going down Third Street. They are getting ready to build the facility to service the trains on Illinois Street. The escalation of the cost of material and labor is skyrocketing every minute. The contractor was given the contract but it was done in two phases. He urged the Commission to go ahead and send Shimmick to work to relieve the traffic and the impacts to the community. He urged the Commission to approve the project.

Commissioner Hardeman indicated it's interesting to note that there were no negative comments about the project.

Commissioner Brandon encouraged staff to look for more funding sources. She hopes that the TEA-3 money comes in. The bridge has to have the approaches. She urged staff to seek additional funding sources to our potential future funding and appropriations to ensure that the bridge is completed no matter what.

Ms. Moyer replied that after the Minority Whip's comments about the President, there may be some doubts about the viability of that funding. It is, however, high on our radar screen. With regards to Mr. Walker's comments, she clarified that the contract will be awarded in three phases because we are not awarding alternatives 1 and 2 (the approaches) at this stage because funding is not available. That practice is not uncommon. The City Charter specifies that we need to have the money up front before we can spend it. It's very common that we do it in phases as money becomes available.

Mr. Walker indicated that one of the things that bothered him was that the bridge was sold to them by Muni. Muni should put something in the pot because it directly affects Muni. Muni told the community that the bridge will be built for support of that area and the trucks will not be on Third Street. Mr. Walker suggested that the Port gets some money from Muni for the approach.

Ms. Moyer replied that the Port, so far, has gotten $4 million from Muni but we're not done yet.

Commissioner Hsu remarked that the Port will have a bridge.

ACTION: Commissioner Hardeman moved approval; Commissioner Bierman seconded the motion. All of the Commissioners were in favor; Resolution No. 04-46 was adopted.

## 7. NEW BUSINESS / AGENDA SETTING

### • NEW BUSINESS

Ms. Moyer indicated that she has taken the liberty of rearranging the agenda. She wanted to have an item for agenda setting so that the Director, the Commission and the public can keep track of the things that staff has promised to bring forward. Staff has promised to bring some items forward in the past that weren't on the agenda today in light of the fact that we have a heavy agenda. Staff will be bringing back Commissioner Bierman's request regarding the sale of the piledrivers at the June 8th meeting as well as her request on the Pier 94 wetland enhancement project. On the horizon, staff will have to address the exclusive right to negotiate with the Mills project which expires on June 8th. Ms. Moyer indicated that she intends to bring a request for extension given the fact that she's only been at the Port for two weeks. As mentioned earlier, staff will present the National Historic Register nomination for Commission's approval at its June 22nd meeting.

Commissioner Hsu welcomed and introduced Ann Lazarus, the new Port Commissioner. She will be sworn in by the Mayor on Friday, May 28, 2004.

Commissioner Hardeman commented that there were a couple of excellent articles on the Chronicle regarding the drydock and the Ferry Building. Renee Dunn should be congratulated. The Port needed that lift.

Tim Kelley indicated that he attended the meeting today with the belief that the pile rigs would be addressed at this meeting.

Ms. Moyer replied that from now on the dates will be noted on the agenda setting so the public would know when to appear.

- **AGENDA SETTING**

**June 8, 2004**
(1) Commissioner Bierman's Request – Report on the sale of Piledrivers #2 and #3.
(2) Commissioner Bierman's Request – Report on Pier 94 Wetland Enhancement Project
(3) Extension of Pier 27-31 Exclusive Right to Negotiate

**June 22, 2004**
(1) National Register Historic District Nomination

## 8. PUBLIC COMMENT

Jim Haas, senior member of the Rincon Point South Beach Citizens Advisory Committee, indicated that their committee has worked closely with the Port on a number of issues particularly the cruise terminal. They played a significant role in bringing that project to fruition. They have met with Port staff and preservationists regarding issues that arose that affected the construction of the terminal. He spoke about the seawall lot across from Pier 30/32. The condominium tower is now under construction; it sits at the apex of the triangle. The rest of the block is a City & Port property which is to be devoted to low-rise affordable housing project. They had hoped that the developer of the cruise terminal and the condo tower would include the affordable housing in their work and have it all done at the same time. The cruise terminal in itself is an immense project that was too big a burden to put the affordable housing task on the developer as well. Therefore, as reported to their committee, Port staff mentioned that they would proceed on a separate course to begin the development of affordable units. Staff promised to present the Committee a plan for the stages of putting the property out to bid to a non-profit or for profit or whoever wants to develop the property. In itself, it would be complicated because staff has to get a legislation authorizing the Port to put affordable housing on that property as was done for Delancey Street. He emphasized that this project needs to be done. He need not tell the Commission the priority of the Mayor and the Board of Supervisors for affordable housing. The Port wouldn't want to be in a position where it could have initiated it rather than be called on the carpet as to why they haven't proceeded with the project. He asked the Commission and staff to develop a plan to produce the affordable housing on that site. He has great confidence on staff's abilities.

Commissioner Bierman hopes that staff moves ahead with this recommendation. Ms. Moyer replied that it's on the to-do list.

## 9. EXECUTIVE SESSION

A. Vote on whether to hold closed session to confer with Legal Counsel and Real Property Negotiator.

ACTION: Commissioner Hardeman moved approval; Commissioner Brandon seconded the motion. All of the Commissioners were in favor.

At 4:55 p.m., the Commission withdrew to executive session to discuss the following:

B. CLOSED SESSION

(1) PUBLIC EMPLOYEE APPOINTMENT/DISMISSAL/RESIGNATION – This is specifically authorized under California Government Code Section 54957.

- Consideration and Possible Action on Public Employee's Appointment/ Dismissal/Resignation – Deputy Director of Port (No. of Employees Affected 4).

(2) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – This is specifically authorized under California Government Code Section 54956.8.
***This session is closed to any non-City/Port representative. ****

a. Property: Francisco Bay Office Park (Seawall Lots 315, 316 and 317) at Embarcadero and Francisco Street
Person Negotiating: Port: Byron Rhett, Director of Planning & Development
*Exploratorium: Dr. Goéry Delacôte

b. Property: Piers 27-31 on Embarcadero at Battery and Sansome Streets
Person Negotiating: Port: Byron Rhett, Director of Planning & Development
*Piers 27-31 LLC: Steve Jacobsen

c. Property: The Embarcadero Hotel, at Embarcadero and Broadway
Person Negotiating: Port: Byron Rhett, Director of Planning & Development
*Stanford Hospitality, Inc: Antony Carter

**10. RECONVENE IN OPEN SESSION**

At 4:55 p.m., the Commission withdrew from executive session and reconvened in open session.

ACTION: Commissioner Hardeman moved approval to adjourn executive session and reconvene in open session; Commissioner Brandon seconded the motion. All of the Commissioners were in favor.

ACTION: Commissioner Hardeman moved approval to not disclose any information discussed in executive session; Commissioner Brandon seconded the motion. All of the Commissioners were in favor.

**11. ADJOURNMENT**

ACTION: Commissioner Hardeman moved approval to adjourn the meeting; Commissioner Brandon seconded the motion. All of the Commissioners were in favor.

Commissioner Hsu adjourned the meeting at 5:32 p.m.

# SAN FRANCISCO PORT COMMISSION

DOCUMENTS DEPT.

JUN - 4 2004

SAN FRANCISCO
PUBLIC LIBRARY

**Wilfred Hsu, President**
**Michael Hardeman, Vice President**
**Kimberly Brandon, Commissioner**
**Sue Bierman, Commissioner**
**Ann Lazarus, Commissioner**

**Monique Moyer, Executive Director**
**Phone: 415-274-0400; Fax: 415-274-0412**

**Amy Quesada, Commission Secretary**
**Phone: 415-274-0406; Fax: 415-274-0412**

SF
PSS
#1
6/8/04

## AGENDA

**REGULAR MEETING**
**3:00 P.M., TUESDAY, JUNE 8, 2004**
**PORT COMMISSION HEARING ROOM, 2ND FLOOR**
**FERRY BUILDING, SAN FRANCISCO, CA 94111**

***The Port Commission Agenda as well as Staff Reports/Explanatory Documents available to the public and provided to the Commission are posted on the Port's Website at www.sfport.com.***

1. **CALL TO ORDER / ROLL CALL**

2. **APPROVAL OF MINUTES** - May 25, 2004 Meeting

3. **EXECUTIVE**

   A. Executive Director's Report
      - City Budget Process
      - BCDC/Fisherman's Wharf Plan
      - Cruise Ship Berthing Agreement

4. **ENGINEERING & MAINTENANCE**

   A. Information Presentation and Public Hearing on the Sale of Pile Driver Rigs #2 and #3 to the Amador Sawmill and Mining Association.

   B. Request for approval to authorize staff to advertise for competitive bids for the construction of the Pier 43 Arch Improvements at Fisherman's Wharf, Contract No. 2687. (Resolution No. 04-47)

   C. Request for approval to authorize staff to advertise for competitive bids for the Pier 94 Wetland Enhancement Project, Contract No. 2694 (Site location: Between Pier 94 and Islais Creek) (Resolution No. 04-48)

## 5. ADMINISTRATIVE SERVICES

A. Request for authorization to negotiate and award professional services contract for the underwriting of the Port of San Francisco Revenue Refunding Bonds, Series 2004. (Resolution No. 04-49)

## 6. PLANNING & DEVELOPMENT

A. Request for approval to extend the date for the Port Commission to endorse the terms of the Revised Development Memorandum for the Piers 27-31 Mixed Use Recreation Project. (Site Location: The Embarcadero, between Bay and Battery Streets) (Resolution No. 04-50)

## 7. NEW BUSINESS / AGENDA SETTING

- New Business
- Agenda Setting (Targeted Commission meeting, subject to change)

(1) Nexus Study (June 22)
(2) Historic District Nomination (June 22)
(3) Approval of Refinancing of Series 1994 Port Revenue Bonds (June 22)
(4) Interim Leasing Guidelines (July 13)

## 8. PUBLIC COMMENT

Public comment is permitted on any matter within Port jurisdiction and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. A member of the public has up to three minutes to make pertinent public comments before action is taken on any agenda item and during the new business/public comment period. It is strongly recommended that public comments be submitted in writing so they can be distributed to the Commissioners for their review. Please fill out a speaker card and hand it to the Commission Secretary. If you have any question regarding the agenda, please contact the Commission Secretary at 274-0406.

## 9. EXECUTIVE SESSION

A. Vote on whether to hold closed session to confer with Legal Counsel and Real Property Negotiator.

B. CLOSED SESSION

(1) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – This is specifically authorized under California Government Code Section 54956.8.
***This session is closed to any non-City/Port representative. ****

a. Property: SWL 318 at 1500 Sansome Street

Person Negotiating: Port: Ken Winters, Director of Real Estate
*Roundhouse: Activspace - Gary Romain

Under Negotiation: _____ Price _____ Terms of Payment __X__ Both
An executive session has been calendared to give direction to staff regarding the Request For Proposals (RFP) for the Roundhouse located at SWL 318.

b. Property: SWL 356 at Cesar Chavez and 25th Street
Person Negotiating: Port: Ken Winters, Director of Real Estate
*Affordable Self-Storage: Chris Kasaris

Under Negotiation: _____ Price _____ Terms of Payment __X__ Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at SWL 356.

c. Property: Francisco Bay Office Park (Seawall Lots 315, 316 and 317) at Embarcadero and Francisco Street
Person Negotiating: Port: Byron Rhett, Director of Planning & Development
*Exploratorium: Dr. Goéry Delacôte

Under Negotiation: _____ Price _____ Terms of Payment __X__ Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at SWL 315, 316 & 317.

## 10. RECONVENE IN OPEN SESSION

A. Possible report on actions taken in closed session pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.

B. Vote in open session on whether to disclose any or all executive session discussions pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.

## 11. ADJOURNMENT

## JUNE/JULY 2004
## CALENDAR OF UPCOMING PORT MEETINGS - OPEN TO THE PUBLIC

| Date | Time | Group | Location |
|---|---|---|---|
| **June 8** | **3:00 p.m.** | **Port Commission** | **Port Commission Room @ Ferry Building** |
| **June 22** | **3:00 p.m.** | **Port Commission** | **Port Commission Room @ Ferry Building** |
| **July 13** | **3:00 p.m.** | **Port Commission** | **Port Commission Room @ Ferry Building** |
| **July 27** | **3:00 p.m.** | **Port Commission** | **Port Commission Room** |

**NOTES:**

The San Francisco Port Commission meets regularly on the 2nd and 4th Tuesday of the month at 3:00 p.m., unless otherwise noticed. ***The Commission Agenda and staff reports are posted on the Port's Website @ www.sfport.com.*** Contact Amy Quesada at 274-0406.

The Brannan Street Wharf Citizens Advisory Committee meets on an as-needed basis to develop a concept plan for this planned open space in the South Beach area. Meetings are held in the Bayside Conference Room at Pier 1. Contact Dan Hodapp @ 274-0625 or dan_hodapp@sfport.com

The Cruise Terminal Environmental Advisory Committee generally meets the third week of each month. Date and time to be determined. Contact Michael Nerney at 274-0416.

The Environmental Quality Advisory Committee (EQAC) meets regularly on the fourth Thursday of the month at 9:00 a.m. at Scoma's Restaurant, Pier 47 @ Fisherman's Wharf. Contact Jay Ach @ 274-0562.

The Fisherman's Wharf Waterfront Advisory Group meets regularly on the 3rd Tuesday of the month. The regular meeting time and place is 9:00 a.m. at Scoma's Restaurant, Pier 47 at Fisherman's Wharf. Contact Kirk Bennett @ 274-0545.

The Maritime Commerce Advisory Committee (MCAC) meets on a bi-monthly basis, on the third Thursday of the month, from 11:30 a.m. to 1:30 p.m. @ Pier 1. Contact Jill Rodby @ 274-0519.

The Mission Bay CAC meets regularly on the 2nd Thursday of the month, from 5:30 to 7:30 p.m. at the Mission Bay Visitor Center (255 Channel Street). Contact Tiffany Bohee at 749-2481 for more information.

The Northeast Waterfront Advisory Group meets regularly on the 1st Wednesday of the month at 4:00 p.m. in the Bayside Conference Room @ Pier 1. Contact Kirk Bennett @ 274-0545.

The Pier 70 Advisory Group meets monthly on an as-needed basis generally on the 2nd Wednesday of the month from 4 to 6 p.m. at the Potrero Campus of the California College of Arts and Crafts, Board Room, 1111 – 8th Street between Irvin and Hooper. Contact Mark Paez @ 705-8674.

The Rincon Point-South Beach CAC meets regularly on the 3rd Monday of the month, from 5:00-7:00 p.m. at the South Beach Yacht Club (Pier 40 on The Embarcadero). Contact Tiffany Bohee at 749-2481 or 749-2400 for more information.

The Southern Waterfront Advisory Committee (SWAC) meets every 1st Wednesday of the month from 6:15 to 8:15 p.m. Location to be determined. Contact David Beaupre @ 274-0539 or david_beaupre@sfport.com.

The Waterfront Design Advisory Committee meets the 3rd Tuesday of the month from 11 a.m. to 1 p.m. in the Bayside Conference Room @ Pier 1. Contact Dan Hodapp @ 274-0625.

## ACCESSIBLE MEETING INFORMATION

**Ferry Building:** The Port Commission Hearing Room is located on the second floor of the Ferry Building. The main public entrance is from the west (Embarcadero) side and is served by a bank of elevators adjacent to the historic staircase. Accessible public restrooms are on the first floor at the northeast end of the building as well as on the second floor across the lobby from the Port Commission Hearing Room. The main path of travel to the Port Commission Hearing Room is equipped with remote infrared signage (Talking Signs). The Port Commission Hearing Room is wheelchair accessible. Accessible seating for persons with disabilities (including those using wheelchairs) is available. The closest accessible BART and MUNI Metro station is Embarcadero located at Market & Spear Streets. Accessible MUNI lines serving the Ferry Building area are the F-Line, 9, 31, 32 and 71. For more information about MUNI accessible services, call (415) 923-6142.

The nearest accessible parking is provided in the following off-street pay lots:

A) 3 spaces in the surface lot on the west side of the Embarcadero at Washington St.
B) 3 spaces in the Pier 1/2 lot, located on the east side of the Embarcadero between the Ferry Building and Pier 1. During business hours this lot is operated by valets
C) Hourly and valet parking in the Pier 3 lot. This lot is accessed through the Pier 3 bulkhead building entrance on the east side of the Embarcadero. This lot is located on the pier deck; adjacent to the ferry boat Santa Rosa.

Additional covered accessible off-street pay parking is available in the Golden Gateway Garage, which is bounded by Washington, Clay, Drumm and Battery Streets. Entrance is on Clay St. between Battery and Front Streets. There is no high-top van parking. Metered street parking is available on the Embarcadero, Washington St., Folsom St. and Drumm St.

**Pier 1:**
The Port's fully accessible offices are in the west end of Pier 1. There are two public entrances; the main entrance on the west (Embarcadero), and the Port History walk entrance on the south apron. Each of these entrances is provided with an automatically operated door. Both entrances lead to the Bayside conference rooms. Accessible public restrooms, drinking fountains, payphone and TTY are on the first floor near the main entrance. The public spaces of the Port's offices are equipped with remote infrared signage (Talking Signs) identifying all primary entrances, paths of travel, meeting rooms and amenities. Accessible seating areas and assistive listening devices will be available in the Bayside Conference rooms.

**Accessible meeting information policy:**
In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals. A sign language interpreter and alternative format copies of meeting agendas and other materials can be provided upon request made at least 72 hours in advance of any scheduled meeting. Contact John Scott, Port's ADA Coordinator, at 274-0571. The Port's TTY number is (415) 274-0587.

**Know Your Rights Under the Sunshine Ordinance**. Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact Donna Hall by mail: Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102, by phone at (415) 554-7724, by fax at (415) 554-7854 or by email at Donna.Hall@sfgov.org. Citizens may obtain a free copy of the Sunshine Ordinance by contacting Ms. Hall or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, at http://www.sfgov.org/sunshine.htm

**Lobbyist Registration and Reporting Requirements.** Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Government Conduct Code §2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness, Suite 3900, San Francisco, CA 94102, phone (415) 581-2300 or fax (415) 581-2317; web site: www.sfgov.org/ethics.

# SAN FRANCISCO PORT COMMISSION

**Wilfred Hsu, President**
**Michael Hardeman, Vice President**
**Kimberly Brandon, Commissioner**
**Sue Bierman, Commissioner**
**Ann Lazarus, Commissioner**

**Monique Moyer, Executive Director**
**Phone: 415-274-0400; Fax: 415-274-0412**

**Amy Quesada, Commission Secretary**
**Phone: 415-274-0406; Fax: 415-274-0412**

SF
P55
#1
6/8/04
c 2

## AGENDA

**REGULAR MEETING**
**3:00 P.M., TUESDAY, JUNE 8, 2004**
**PORT COMMISSION HEARING ROOM, 2ND FLOOR**
**FERRY BUILDING, SAN FRANCISCO, CA 94111**

***The Port Commission Agenda as well as Staff Reports/Explanatory Documents available to the public and provided to the Commission are posted on the Port's Website at www.sfport.com.***

DOCUMENTS DEPT.
JUN - 4 2004
SAN FRANCISCO
PUBLIC LIBRARY

**1. CALL TO ORDER / ROLL CALL**

**2. APPROVAL OF MINUTES** - May 25, 2004 Meeting

**3. EXECUTIVE**

A. Executive Director's Report
- City Budget Process
- BCDC/Fisherman's Wharf Plan
- Cruise Ship Berthing Agreement

**4. ENGINEERING & MAINTENANCE**

A. Information Presentation and Public Hearing on the Sale of Pile Driver Rigs #2 and #3 to the Amador Sawmill and Mining Association.

B. Request for approval to authorize staff to advertise for competitive bids for the construction of the Pier 43 Arch Improvements at Fisherman's Wharf, Contract No. 2687. (Resolution No. 04-47)

C. Request for approval to authorize staff to advertise for competitive bids for the Pier 94 Wetland Enhancement Project, Contract No. 2694 (Site location: Between Pier 94 and Islais Creek) (Resolution No. 04-48)

## 5. ADMINISTRATIVE SERVICES

A. Request for authorization to negotiate and award professional services contract for the underwriting of the Port of San Francisco Revenue Refunding Bonds, Series 2004. (Resolution No. 04-49)

## 6. PLANNING & DEVELOPMENT

A. Request for approval to extend the date for the Port Commission to endorse the terms of the Revised Development Memorandum for the Piers 27-31 Mixed Use Recreation Project. (Site Location: The Embarcadero, between Bay and Battery Streets) (Resolution No. 04-50)

## 7. NEW BUSINESS / AGENDA SETTING

- New Business

- Agenda Setting (Targeted Commission meeting, subject to change)

  (1) Nexus Study (June 22)
  (2) Historic District Nomination (June 22)
  (3) Approval of Refinancing of Series 1994 Port Revenue Bonds (June 22)
  (4) Interim Leasing Guidelines (July 13)

## 8. PUBLIC COMMENT

Public comment is permitted on any matter within Port jurisdiction and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. A member of the public has up to three minutes to make pertinent public comments before action is taken on any agenda item and during the new business/public comment period. It is strongly recommended that public comments be submitted in writing so they can be distributed to the Commissioners for their review. Please fill out a speaker card and hand it to the Commission Secretary. If you have any question regarding the agenda, please contact the Commission Secretary at 274-0406.

## 9. EXECUTIVE SESSION

A. Vote on whether to hold closed session to confer with Legal Counsel and Real Property Negotiator.

B. CLOSED SESSION

(1) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – This is specifically authorized under California Government Code Section 54956.8.
***This session is closed to any non-City/Port representative. ****

a. Property: SWL 318 at 1500 Sansome Street

Person Negotiating: Port: Ken Winters, Director of Real Estate
*Roundhouse: Activspace - Gary Romain

Under Negotiation: _____ Price _____ Terms of Payment __X__ Both
An executive session has been calendared to give direction to staff regarding the Request For Proposals (RFP) for the Roundhouse located at SWL 318.

b. Property: SWL 356 at Cesar Chavez and 25th Street
Person Negotiating: Port: Ken Winters, Director of Real Estate
*Affordable Self-Storage: Chris Kasaris

Under Negotiation: _____ Price _____ Terms of Payment __X__ Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at SWL 356.

c. Property: Francisco Bay Office Park (Seawall Lots 315, 316 and 317) at Embarcadero and Francisco Street
Person Negotiating: Port: Byron Rhett, Director of Planning & Development
*Exploratorium: Dr. Goéry Delacôte

Under Negotiation: _____ Price _____ Terms of Payment __X__ Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at SWL 315, 316 & 317.

**10. RECONVENE IN OPEN SESSION**

A. Possible report on actions taken in closed session pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.

B. Vote in open session on whether to disclose any or all executive session discussions pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.

**11. ADJOURNMENT**

## JUNE/JULY 2004
## CALENDAR OF UPCOMING PORT MEETINGS - OPEN TO THE PUBLIC

| Date | Time | Group | Location |
|---|---|---|---|
| **June 8** | **3:00 p.m.** | **Port Commission** | **Port Commission Room @ Ferry Building** |
| **June 22** | **3:00 p.m.** | **Port Commission** | **Port Commission Room @ Ferry Building** |
| **July 13** | **3:00 p.m.** | **Port Commission** | **Port Commission Room @ Ferry Building** |
| **July 27** | **3:00 p.m.** | **Port Commission** | **Port Commission Room** |

**NOTES:**

The San Francisco Port Commission meets regularly on the 2nd and 4th Tuesday of the month at 3:00 p.m., unless otherwise noticed. ***The Commission Agenda and staff reports are posted on the Port's Website @ www.sfport.com.*** Contact Amy Quesada at 274-0406.

The Brannan Street Wharf Citizens Advisory Committee meets on an as-needed basis to develop a concept plan for this planned open space in the South Beach area. Meetings are held in the Bayside Conference Room at Pier 1. Contact Dan Hodapp @ 274-0625 or dan_hodapp@sfport.com

The Cruise Terminal Environmental Advisory Committee generally meets the third week of each month. Date and time to be determined. Contact Michael Nerney at 274-0416.

The Environmental Quality Advisory Committee (EQAC) meets regularly on the fourth Thursday of the month at 9:00 a.m. at Scoma's Restaurant, Pier 47 @ Fisherman's Wharf. Contact Jay Ach @ 274-0562.

The Fisherman's Wharf Waterfront Advisory Group meets regularly on the 3rd Tuesday of the month. The regular meeting time and place is 9:00 a.m. at Scoma's Restaurant, Pier 47 at Fisherman's Wharf. Contact Kirk Bennett @ 274-0545.

The Maritime Commerce Advisory Committee (MCAC) meets on a bi-monthly basis, on the third Thursday of the month, from 11:30 a.m. to 1:30 p.m. @ Pier 1. Contact Jill Rodby @ 274-0519.

The Mission Bay CAC meets regularly on the 2nd Thursday of the month, from 5:30 to 7:30 p.m. at the Mission Bay Visitor Center (255 Channel Street). Contact Tiffany Bohee at 749-2481 for more information.

The Northeast Waterfront Advisory Group meets regularly on the 1st Wednesday of the month at 4:00 p.m. in the Bayside Conference Room @ Pier 1. Contact Kirk Bennett @ 274-0545.

The Pier 70 Advisory Group meets monthly on an as-needed basis generally on the 2nd Wednesday of the month from 4 to 6 p.m. at the Potrero Campus of the California College of Arts and Crafts, Board Room, 1111 – 8th Street between Irvin and Hooper. Contact Mark Paez @ 705-8674.

The Rincon Point-South Beach CAC meets regularly on the 3rd Monday of the month, from 5:00-7:00 p.m. at the South Beach Yacht Club (Pier 40 on The Embarcadero). Contact Tiffany Bohee at 749-2481 or 749-2400 for more information.

The Southern Waterfront Advisory Committee (SWAC) meets every 1st Wednesday of the month from 6:15 to 8:15 p.m. Location to be determined. Contact David Beaupre @ 274-0539 or david_beaupre@sfport.com.

The Waterfront Design Advisory Committee meets the 3rd Tuesday of the month from 11 a.m. to 1 p.m. in the Bayside Conference Room @ Pier 1. Contact Dan Hodapp @ 274-0625.

## ACCESSIBLE MEETING INFORMATION

**Ferry Building:** The Port Commission Hearing Room is located on the second floor of the Ferry Building. The main public entrance is from the west (Embarcadero) side and is served by a bank of elevators adjacent to the historic staircase. Accessible public restrooms are on the first floor at the northeast end of the building as well as on the second floor across the lobby from the Port Commission Hearing Room. The main path of travel to the Port Commission Hearing Room is equipped with remote infrared signage (Talking Signs). The Port Commission Hearing Room is wheelchair accessible. Accessible seating for persons with disabilities (including those using wheelchairs) is available. The closest accessible BART and MUNI Metro station is Embarcadero located at Market & Spear Streets. Accessible MUNI lines serving the Ferry Building area are the F-Line, 9, 31, 32 and 71. For more information about MUNI accessible services, call (415) 923-6142.

The nearest accessible parking is provided in the following off-street pay lots:

A) 3 spaces in the surface lot on the west side of the Embarcadero at Washington St.
B) 3 spaces in the Pier 1/2 lot, located on the east side of the Embarcadero between the Ferry Building and Pier 1. During business hours this lot is operated by valets
C) Hourly and valet parking in the Pier 3 lot. This lot is accessed through the Pier 3 bulkhead building entrance on the east side of the Embarcadero. This lot is located on the pier deck; adjacent to the ferry boat Santa Rosa.

Additional covered accessible off-street pay parking is available in the Golden Gateway Garage, which is bounded by Washington, Clay, Drumm and Battery Streets. Entrance is on Clay St. between Battery and Front Streets. There is no high-top van parking. Metered street parking is available on the Embarcadero, Washington St., Folsom St. and Drumm St.

**Pier 1:**
The Port's fully accessible offices are in the west end of Pier 1. There are two public entrances; the main entrance on the west (Embarcadero), and the Port History walk entrance on the south apron. Each of these entrances is provided with an automatically operated door. Both entrances lead to the Bayside conference rooms. Accessible public restrooms, drinking fountains, payphone and TTY are on the first floor near the main entrance. The public spaces of the Port's offices are equipped with remote infrared signage (Talking Signs) identifying all primary entrances, paths of travel, meeting rooms and amenities. Accessible seating areas and assistive listening devices will be available in the Bayside Conference rooms.

**Accessible meeting information policy:**
In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals. A sign language interpreter and alternative format copies of meeting agendas and other materials can be provided upon request made at least 72 hours in advance of any scheduled meeting. Contact John Scott, Port's ADA Coordinator, at 274-0571. The Port's TTY number is (415) 274-0587.

**Know Your Rights Under the Sunshine Ordinance**. Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact Donna Hall by mail: Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102, by phone at (415) 554-7724, by fax at (415) 554-7854 or by email at Donna.Hall@sfgov.org. Citizens may obtain a free copy of the Sunshine Ordinance by contacting Ms. Hall or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, at http://www.sfgov.org/sunshine.htm

**Lobbyist Registration and Reporting Requirements.** Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Government Conduct Code §2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness, Suite 3900, San Francisco, CA 94102, phone (415) 581-2300 or fax (415) 581-2317; web site: www.sfgov.org/ethics.

PORT OF SAN FRANCISCO

**MEMORANDUM**

June 2, 2004

TO: MEMBERS, PORT COMMISSION
Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Kimberly Brandon
Hon. Sue Bierman
Hon. Ann Lazarus

FROM: Monique Moyer
Executive Director

SUBJECT: Informational Presentation on Pile Driver Rigs #2 and #3

The Port has responsibilities for repairing and maintaining piers and waterfront facilities under its jurisdiction, which includes pile driving to support piers, wharves and maritime berthing. Much of this work is performed by the Port's Maintenance Division, with equipment owned and operated by the Port. The Port operated Pile Rig Drivers #2 and #3, built by the Port's maintenance staff and introduced into service in 1951, until 2003. Both rigs suffered substantial deterioration, with Pile Rig #2 rendered unsafe to operate as determined by the Port Maintenance Superintendent due to dry rot, and neither were capable of handling today's pile driving demands. In recent years, the Port had acquired or retrofitted two newer pneumatic and diesel powered pile rig drivers (Pile Rigs #1 and #4) to meet current pile driving needs.

The Port's maintenance staff made extensive efforts to transfer ownership of Rigs #2 and #3 to locally-based preservation organizations, which proved unsuccessful. The Port received an offer to purchase both rigs from the Amador Sawmill and Mining Association, a non-profit organization dedicated to preserving artifacts and steam-powered equipment related to the lumber and mining industry. Given the obsolete and deteriorated condition of the pile rigs, liability concerns associated with continued ownership, and the Port's unsuccessful attempts to transfer them to local preservation organizations, the Port sold Pile Rigs #2 and #3 to the Amador Sawmill Association in April 2004. A photograph of Pile Rigs #2 and #3 are attached to this memorandum.

**Description of Pile Rig Drivers #2 and #3**

Piledrivers #2 and #3 were almost identical in design and function. They were powered by an engine, boiler and cable and winch system, and mounted on steel barges measuring

**This Print Covers Calendar Item No. 4A**



RT OF SAN FRANCISCO
TEL 415 274 0400 TTY 415 274 0587 ADDRESS Pier 1

70 feet long by 28 feet wide. The piledriving was accomplished via a system of winches and pulleys, which provided the necessary power to lift and drop hammers that drove the pile within a 110 foot "A" Frame structure, constructed of wood and mounted at the front of a barge. The "A" Frame had an integrated drop hammer weighing 2,850 pounds; it was also fitted with a single boom rated at 5 tons capacity, capable of working "piledriving swinging leads."

The rigs were employed primarily for repairing and replacing wood pier aprons and the protective wood "fenders" around the perimeter of the pier. They were not used (nor were they in existence) to construct any of the Port's piers. Most of the Port's piers were constructed with pile driver rigs mounted on the pier decks themselves, not on floating pile rig barges. Pile substructure and decking for a pier typically were built from the land side out into the Bay, with the pile rigs driving new piles to support the next section of the pier from the deck of the previously constructed section of the pier.

Pile Rigs #2 and #3 initially were fueled by wood to generate steam power. According to Tom Meisenbach, Port Superintendent of Harbor Maintenance, this required a 24-hour watchman to be on hand to keep the boiler loaded with wood so that the pile rigs were always ready for service. In 1978, the boilers were converted to a diesel and air fuel system, requiring little lead time to fire up the boilers. The boiler units for both rigs were manufactured for the U.S. Army Corps of Engineers in 1945 by C.H. Dutton, a well-known manufacturer which produced large volumes of equipment to support the World War II effort. In or about 1950, the Port acquired the boiler units as surplus equipment. The engine unit in Pile Rig #2 was manufactured by Clyde Engine Company, and Pile Rig #3 had an engine manufactured by American Engine Company. Under the supervision of then Port Maintenance Superintendent Les Stewart, who designed the pile driver rigs, Port maintenance staff built the wooden A frame structures and pile driver utility sheds, mounted them on the barges, and installed the engines, boilers and pile driving mechanical equipment. Both pile rigs were brought into operation in 1951, based on a Port report of depreciated assets issued at that time. The boiler in Pile Rig #3 was later replaced by the Port maintenance staff.

The draft National Register nomination report for the Port of San Francisco Embarcadero Historic District includes a description of both pile rigs as part of an extensive discussion of maritime labor history. In particular, the historic district nomination report describes the function and work involved in pile driving in the development of the Port. The nomination report will be revised to incorporate or reference the above information on Pile Rigs #2 and #3. The nomination report, as currently drafted, dates Pile Rigs #2 and #3 to the 1930's, which will be corrected before the report is finalized.

**Condition and Pile Rig Requirements**

Due to technological changes in marine construction standards, materials, and marine operations, both pile rigs had become obsolete. Piledrivers #2 and #3 were designed for driving wood piles. Although they were used in recent years to install a limited number of pipe piles, neither were designed to handle the combination of concrete, metal and wood pile work required today. Pile Rigs #2 and #3 were designed to produce an impact force of approximately 28,500 pounds but typically operated between 14,250 and 17,100 pounds. By comparison, the Port's modern Pile Driver Rigs #1 and #4 currently are equipped with hammers producing 42,000 pounds of impact force, and can be fitted with heavier hammers if required.

Pile Rigs #2 and #3 were not as effective as Pile Rigs #1 and #4, which can be rotated at the derrick versus having to rotate the entire piledriving rig (as required of Pile Rigs #2 and #3). Today a piledriving rig must be capable of reaching into limited access areas and supporting the weight of heavier swinging leads and a variety of piledriving hammers (diesel, hydraulic, steam & air powered, vibratory drop hammers), which result in tremendous stresses on the rig components. Neither Pile Rig #2 nor #3 had the structural strength to meet these requirements.

In addition, both rigs were in advanced states of deterioration. The hulls of both rigs were compromised by excessive corrosion and a thin hull condition that had developed in numerous areas due to not being dry-docked for maintenance for over 20 years. As a result, both rigs listed when encountering significant wave or wind action due to water seepage into the hulls. The A-frames of the pile rigs themselves suffered from a high degree of dry rot which weakened the structures such that they were not able to withstand the normal stresses of piledriving. The estimated cost by the Port's maintenance staff to repair these failing features, including drydock work, was $425,000, which the Port could not justify given the functional inferiority of Pile Rigs #2 and #3 compared to current pile driving requirements. In addition, the rigs posed an increasing risk of costly injury and liability.

To meet current pile driving needs with limited resources, the Port maintenance staff often has had to rely on its own ingenuity and technical skills to retrofit or develop effective tools at a fraction of the cost of new equipment. Similar to Pile Rigs #2 and #3, Port maintenance staff built Pile Rig #1, and acquired Pile Rig #4 as surplus from the Navy at a fraction of the cost of new equipment. New equipment carries a price tag of $1.2 - $3.4 million each.

**Preservation Efforts**

By 2003, given the functional, maintenance, and liability problems associated with keeping Pile Rigs #2 and #3, the Port maintenance staff began active efforts to find a way to transfer them to local non-profit entities interested in their preservation.

*Copra Crane Labor Landmark Association & Fund for Labor Culture & History* -
The Port has been working with these two groups ("the Association") to facilitate efforts to preserve the copra crane at Islais Creek as an historic resource since spring of 2002. The Association's concept of preserving the pile rigs together as part of that effort was supported by Port staff and the Association, which resulted in an extensive effort to transfer ownership and responsibility to the Association. However, the Association expressed a preference to have custody of and maintain the rigs, but with the Port maintaining legal ownership. Unfortunately, the cost and liability requirements of such an arrangement were beyond the resources of the Port Maintenance Department. Similarly, the Association's desire to berth and store the pile rigs on Port property, which triggered the need for the Association to secure liability insurance, was problematic. Despite Port assistance to find the lowest cost marine insurance carrier, the $25,000 annual cost of the liability policy was prohibitive. Similarly, the Port and members of the International Longshoreman's and Warehouseman's Union (ILWU), and Pile Drivers Union Local 34 investigated ways in which the labor needed for the repairs could be discounted or carried out on a volunteer basis. ILWU and the Piledrivers Union Local 34 agreed to assign apprentice members to the preservation effort; however, the bulk of the work involved the

preparation for sand blasting, sand blasting and painting at an estimated cost of $250,000. None of the organizations involved were willing to make that investment.

*San Francisco Maritime National Park Association* – When the negotiations with the Copra Crane group ended, Tom Petersen, Port Deputy Director for Maintenance, contacted the San Francisco Maritime National Park Association (Park Association) to propose the acquisition of at least one of the pile rigs as an exhibit in their collection at Hyde Street Harbor. While the Park Association expressed interest, it lacked the physical and financial resources to take this exhibit. The acquisition of a pile rig as an exhibit, recognizing the significant maintenance and repair cost requirements, would have required congressional approval and appropriation, which was not considered to be feasible by Kate Richardson, the Superintendent of the San Francisco Maritime National Historical Park.

*Amador Sawmill & Mining Association* - The Port was approached by the Amador Sawmill & Mining Association (ASMA), a 503(c) non-profit group that preserves historic steam-driven equipment and sawmills for public viewing. The type of steam boiler, winch and pulley system fitted on the pile rigs was originally used in the lumber industry. This type of equipment was mounted on "skids" laid on the forest floors, which powered the hauling of freshly cut logs to their collection points, where they were then transported to the sawmill facilities. ASMA wanted to obtain the piledrivers in order to retrieve the steam plant and engine equipment, to incorporate into their display of steam driven sawmills. Given ASMA's public purpose for using the steam-driven components of the pile rigs, and its ability to meet the City requirements to take ownership and liability responsibility for the rigs, the Port sold Pile Rigs #2 and #3 to ASMA for a nominal fee. ASMA volunteers assembled at Pier 90 on April 15, 2004 and took possession of the rigs, which were towed to Antioch prior to the dismantling phase.

*Archival Documentation* - The Port entered into a contract with Architectural Resources Group to conduct archival photography of Pile Rig #2, which was in better condition than Rig #3 to produce a permanent record of this equipment. The Port also is assembling the architectural plans and previous photos taken over the years for inclusion in the archival documentation.

Submitted by:
Diane Oshima
Asst. Deputy Director, Waterfront Planning

Port of San Francisco Pile Driver Rigs #2 and #3
April 2004

PORT OF SAN FRANCISCO

**MEMORANDUM**

June 1, 2004

**TO:** MEMBERS, PORT COMMISSION
Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Kimberly Brandon
Hon. Susan Bierman
Hon. Ann Lazarus

**FROM:** Monique Moyer
Executive Director M. Moyer

**SUBJECT:** Authorize Staff to Advertise for Competitive Bids for Construction of the Pier 43 Arch Improvements, Contract No. 2687

**DIRECTOR'S RECOMMENDATION:** AUTHORIZE STAFF TO ADVERTISE FOR COMPETITIVE BIDS FOR CONSTRUCTION OF THE PIER 43 ARCH IMPROVEMENTS, CONTRACT NO. 2687

## Introduction

Port staff requests Commission authorization to advertise for competitive bids for construction of the Pier 43 Arch Improvements, Contract No. 2687. Completion of this work would implement the majority of the repairs required to protect and restore the Pier 43 Arch.

## Background

The Pier 43 Arch is a historic structure that is one of the most significant reminders of the San Francisco waterfront's industrial past. The arch has been identified in the Port's May 2004, draft Natural Register of Historic Places Nomination for the Port of San Francisco Embarcadero historic district. A fire caused serious damage to the structure in July 1998. Under an emergency declaration approved by the Port Commission on August 11, 1998, Port staff completed emergency shoring, partial demolition and engineering, to investigate and evaluate the extent of the fire damage. That work was completed in December 1999. In November 2002, after completing engineering studies and repair plans, Port staff completed Contract 2668 for the fire repair work.

Presently, Port staff is seeking authorization for the solicitation of competitive bids for Contract 2687, to complete the majority of remaining renovation work, including:

- Provide architectural lighting for the Arch
- Repair substructure framing
- Repair foundation elements

This Print Covers Calendar Item No. 4B

The federal Disadvantaged Business Enterprise (DBE) program will be used on this project, in lieu of the City's HRC MBE and WBE program, due to federal funding. The Department of Public Works, which manages the Port's DBE program, has established a goal of 30% DBE participation for this project.

**Funding**

The total cost of this phase of the Pier 43 Arch improvements project is estimated at approximately $300,000. The funding sources for this project are as follows:

| | |
|---|---|
| Port Capital Funds, (CPO741, Pier Repair Fund) | $ 45,000 |
| Federal Highway Administration, Transportation Enhancement Activities Grant | $255,000 |
| **Total:** | **$300,000** |

Through Resolution No. 847-00, the Board of Supervisors authorized the acceptance and expenditure of the $255,000 grant for the Pier 43 Arch. The Federal Highway Administration has obligated, and Caltrans has encumbered, $255,000 in Federal Aid reimbursement funds for the construction of the Pier 43 Arch. Caltrans has authorized the Port to advertise for the construction of this project. Port staff will submit progress invoices to Caltrans for reimbursement as we are invoiced by the contractor, during construction.

The Pier Repair Fund, CPO741, has been included in the FY 2003/04 appropriation ordinance by the Board of Supervisors. The Capital Improvement Advisory Committee has approved the Pier Repair Fund, CPO741. The Port's Capital Planning Committee has approved the expenditure of $45,000 from the Pier Repair fund for this project, and this fund has already been encumbered.

**Current Status**

We anticipate advertising for bids in July 2004 and awarding the construction contract in August 2004. Staff expects to issue the Notice to Proceed in September 2004, and the anticipated construction completion date is May 2005. As the construction documents are nearly complete, Port staff requests authorization from the Commission to advertise for competitive bids for this construction project.

Prepared by: Mojgan Yousefkhan
Project Manager

For: Ed Byrne
Acting Chief Harbor Engineer

**PORT COMMISSION**
**CITY AND COUNTY OF SAN FRANCISCO**

**RESOLUTION NO. 04-47**

WHEREAS, The Pier 43 Arch has been identified as a contributing resource in the Port of San Francisco's May 2004, draft Natural Register of Historic Places Nomination for the Port of San Francisco Embarcadero historic resource; and

WHEREAS, On July 14, 1998, a fire caused extensive damage to the historic ferry slip arch structure at Pier 43; and

WHEREAS, The Port received insurance proceeds to repair damages caused by the fire at the Pier 43 Arch; and

WHEREAS, The Port completed fire repair work in November 2002; and

WHEREAS, Additional improvements are necessary to protect and restore the historic Pier 43 Arch; and

WHEREAS, Port staff has nearly completed the design and construction drawings and specifications for further improvements; and

WHEREAS, The estimated cost of the additional work is approximately $300,000; and

WHEREAS, On August 15, 2000 (by Resolution No. 00-66), the Port Commission authorized the Executive Director, to accept and expend $255,000 in Federal Highway Administration, Transportation Enhancement Activity grant funds for the Pier 43 Arch Improvements project; and

WHEREAS, The Board of Supervisors, through Resolution No. 847-00, has authorized the acceptance and expenditure of the $255,000 grant funds for the project; and

WHEREAS, Port staff has secured funding for this project and has nearly completed the final construction documents necessary to bid the construction project; now therefore be it

RESOLVED, That the San Francisco Port Commission hereby authorizes Port Staff to Advertise for Competitive Bids for the construction of Pier 43 Arch Improvements, Contract No. 2687.

***I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of June 8, 2004.***

_____
Secretary

PORT OF SAN FRANCISCO

**MEMORANDUM**

June 2, 2004

**TO:** MEMBERS, PORT COMMISSION

Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Kimberly Brandon
Hon. Susan Bierman
Hon. Ann Lazarus

**FROM:** Monique Moyer
Executive Director

**SUBJECT:** Request for Authorization to Advertise for Competitive Bids for Construction Contract No. 2694, Pier 94 Wetlands Enhancement Project

**DIRECTOR'S RECOMMENDATION:** AUTHORIZE STAFF TO ADVERTISE FOR COMPETITIVE BIDS FOR THE PIER 94 WETLANDS ENHANCEMENT PROJECT, CONTRACT NO. 2694

**Introduction**

Port staff requests that the Commission authorize the advertisement for competitive bids for construction contract No. 2694, Pier 94 Wetlands Enhancement Project. The project scope includes improvement of habitat quality and beautification of an approximately five-acre salt marsh along the northeastern shoreline of Pier 94.

**Background**

In December 2002, the Port Commission adopted Resolution No. 02-65 authorizing acceptance and expenditure of $171,020 in funds from the San Francisco Bay Natural Resources Protection Trust (Trust), for construction of the project. The Board of Supervisors authorized the Port to accept and expend the funds in March 2003 (Resolution No. 139-03).

The project construction includes:

- Removal of construction debris (concrete, asphalt), tires, wood and litter.
- Earthwork and creation of topography to improve tidal circulation and provide varying degrees of inundation to different habitat types.
- Remove large stands of invasive eastern cordgrass.

This Print Covers Calendar Item No. **4C**

- Excavate and remove fill to create approximately 1.5 acres of new wetlands, and create a more natural topography in the wetland/upland transition zone.
- Construct a low, post-and-cable fence to mark the area and prevent encroachment by adjacent industrial uses.

The engineer's estimate for this project is $171,000, which is consistent with the available funds. Staff plans to complete this construction project by October 15, 2004.

**Funding**

San Francisco Bay Natural Resources Protection Trust (Trust) was established with funds from the settlement of natural resources damage claims related to the SS Cape Mohican oil spill, which occurred in 1996. The Trust is intended to support environmental enhancement projects in areas within the City and County of San Francisco that were adversely impacted by oil released from the Cape Mohican. It is jointly administered by the California Department of Fish and Game and the City and County of San Francisco District Attorney's Office. In 2002, the Port submitted a proposal for enhancement of the Pier 94 wetlands as a project candidate for funding by the Trust. The Trustees agreed to fund a maximum of $171,020 for the proposed Pier 94 wetlands enhancement project because it will improve habitat quality for a variety of species that were impacted by the oil spill, including marine fish, shorebirds, and waterfowl.

**Summary**

Port staff recommends that the Commission authorize the advertisement for competitive bids for construction contract No. 2694, Pier 94 Wetland Enhancement Project.

Prepared by: Ken Chu, Project Engineer,
for Edward F. Byrne, Acting Chief Harbor Engineer

**PORT COMMISSION**

**CITY AND COUNTY OF SAN FRANCISCO**

**RESOLUTION NO. 04-48**

WHEREAS, In December 2002, the Port Commission adopted Resolution No. 02-65 authorizing the acceptance and expenditure of $171,020 in funds from the San Francisco Bay Natural Resources Protection Trust ("Trust"), for construction of the Pier 94 Wetland Enhancement Project ("Project"); and

WHEREAS, In March 2003, the Board of Supervisors authorized the Port to accept and expend these Trust funds (Resolution No. 139-03); and

WHEREAS, The Project will improve habitat quality and beautification of an approximately five acre salt marsh along the northeastern shoreline of Pier 94, as described in the accompanying staff memo, and as set forth in the construction contract documents; and

WHEREAS, The engineer's estimate for this project is $171,000, which is consistent with the available funds; now therefore be it

RESOLVED, That the Port Commission hereby authorizes Port staff to advertise for competitive bids for construction contract No. 2694, Pier 94 Wetlands Enhancement Project.

***I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of June 8, 2004.***

_____

Secretary

PORT OF SAN FRANCISCO

**MEMORANDUM**

June 4, 2004

**TO:** MEMBERS, PORT COMMISSION
Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Kimberly Brandon
Hon. Sue Bierman
Hon. Ann Lazarus

**FROM:** Monique Moyer
Executive Director

**SUBJECT:** Request for authorization to negotiate and award professional services contracts for underwriting of the Port of San Francisco Revenue Refunding Bonds, Series 2004

**DIRECTOR'S RECOMMENDATION:** AUTHORIZE STAFF TO NEGOTIATE AND AWARD CONTRACTS TO SIEBERT BRANDFORD SHANK & CO., AND BACKSTROM MCCARLEY BERRY & CO., AS THE MOST QUALIFIED BIDDERS, FOR THE UNDERWRITING OF THE PORT'S REVENUE REFUNDING BONDS, SERIES 2004

Port staff is seeking the Commission's authorization to negotiate and award professional services contracts for the underwriting of the Port's Revenue Refunding Bonds, Series 2004 to Siebert Brandford Shank & Co. Ltd. and Backstrom McCarley Berry & Co. These firms were selected by the selection panel as the most qualified consultants that responded to the Port's Request for Proposals ("RFP"). Port staff also determined that Siebert Brandford Shank & Co. and Backstrom McCarley Berry & Co. fully comply with all City contract requirements.

**BACKGROUND:**
On March 23, 2004, the Commission authorized Staff (through Resolution No. 04-31) to issue a RFP for the underwriting service. On April 13, 2004, the Commission authorized Staff (through Resolution No. 04-33) to work with consultants to prepare a detailed proposal for the Commission's review and action to refinance the Port's outstanding Revenue Refunding Bonds, Series 1994.

Port staff has been working with the Mayor's Office of Public Finance, the City Attorney, the Financial Advisor, and Bond Counsel to refinance the Port's outstanding bonds. The award of underwriting contracts will complete the Bond financing team and facilitate refinancing of the outstanding bonds. The underwriters are the securities dealers who will purchase the bonds from the Port and resell them to investors.

**This Print Covers Calendar Item No. 5A**

**ANALYSIS:**
On May 11, 2004, the Port e-mailed Underwriting Services RFPs to approximately thirty-one underwriting firms some of whom had recently expressed their interest in future Port financings. A notice was placed in both the Port and City's web-site on May 11, 2004. As a result of these efforts, we received a total of twelve responses on May 24, 2004, by the 5:00 PM deadline listed in the RFP.

Representatives from the Port, Mayor's Office of Public Finance, Airport Business & Finance Department, as well as our Financial Advisors evaluated the twelve written proposals. A Representative of the Human Rights Commission assisted in the process but did not participate in the rating. Firms had the choice of applying for a Senior Manager position and/or a Co-Manager position. The following criteria were used in the evaluation of all written proposals:

- Quality of the written proposal.
- Senior and/or Co-managing underwriter experience.
- Responses to the questions in the RFP including the firm's marketing plan for the Series 2004 Bonds, the firm's strategy for bond insurance, and refunding analysis.
- Principals assigned to project teams.
- Overall experience and qualifications of the firm.
- Ability to meet the Port's goals and objectives as related to the Port's financings.
- Analysis and discussion of key financial and business policy issues related to the proposed types of financings and originality of recommendations related to those identified issues.

After reviewing the written proposals based on the criteria outlined above, we invited four firms to participate in the oral interview portion of the selection process. We held oral interviews on June 3, 2004. The interview panel consisted of voting representatives from the Port, Mayor's Office of Public Finance, Airport Business & Finance Department, as well as our Financial Advisor. The firms were evaluated during the oral interview portion of the selection process based on the following criteria:

- Analysis and discussion of the value and relevance of bond insurance for the Revenue Refunding Bond, Series 2004.
- Rating Agency presentation ideas.
- Understanding of the Port's goals and objectives as related to the bond refinancing.
- Perceived commitment to provide Port with underwriting services using proposed resources of the firm.

Following the ratings of the written presentations and the oral interviews, the selection panel determined that Siebert Brandford Shank & Co. was the most qualified firm according to the RFP criteria. The following are the final scores:

- Siebert Brandford Shanks & Co. 720
- Backstrom McCarley Berry & Co. 707.3
- UBS Financial Services 704, and Grigsby & Associates 657.25

Based on this review process and the evaluation panel's recommendation, Port staff recommends the following firms for award of the underwriting contracts in the following capacities:

**Senior Manager(s)**

- Siebert Brandford Shanks & Co.

**Co-Managers**

- Backstrom McCarley Berry & Co.

It is currently projected that these Port Underwriting Contracts will be in place for approximately six months, however the final duration is dependent on the completion of Series 2004 refinancing process.

All work to be completed by the underwriting firms will be performed in connection with the Revenue Refunding Bonds, Series 2004. Payment will occur upon the successful sale and closing of the bonds and with fees being paid from bond proceeds. Staff intends to negotiate the fees with the underwriting firms. However, the combined fees for both firms shall not exceed $6.00 per $1000 bond.

Prepared by: Chudi Chuba, Finance Manager

**PORT COMMISSION**
**CITY AND COUNTY OF SAN FRANCISCO**

**RESOLUTION NO. 04-49**

WHEREAS, on March 23, 2004 the Port Commission authorized the staff to issue an RFP for a underwriting of the Port's Revenue Refunding Bond, Series 2004; and

WHEREAS, on May 24, 2004 the Port received proposals for this professional services work; and

WHEREAS, a selection panel reviewed all proposals, and interviewed four proposers to select the best qualified consultant team(s); and

WHEREAS, based on the criteria and evaluations described in the memorandum to the Port Commission dated June 4, 2004 for Item 5A the selection panel selected Siebert Brandford Shank & Co. as Senior Manager and Backstrom McCarley Berry & Co. as Co-Manager as best qualified to perform the required underwriting services for the Port of San Francisco Revenue Refunding Bonds, Series 2004; now therefore be it,

RESOLVED, that the San Francisco Port Commission hereby authorizes the Executive Director to negotiate and award the subject professional services contracts for the "Port of San Francisco Revenue Refunding Bonds, Series 2004" to Siebert Brandford Shanks & Co. and Backstrom McCarley Berry at a combined cost not to exceed $6.00 per $1000 bond and to execute necessary contract documents in such form that meets the approval of the City Attorney's Office and City Risk Manager.

***I hereby certify that the forgoing resolution was adopted by the San Francisco Port Commission at its meeting of June 8, 2004.***

_____
SECRETARY

PORT OF SAN FRANCISCO

**MEMORANDUM**

June 2, 2004

**TO:** **MEMBERS, PORT COMMISSION**
Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Kimberly Brandon
Hon. Sue Bierman
Hon. Ann Lazarus

**FROM:** Monique Moyer
Executive Director

**SUBJECT:** **Request to extend the date for the Port Commission to endorse the terms of the Revised Development Memorandum for the Piers 27-31 Mixed Use Recreation Project (Site Location: The Embarcadero, between Bay and Battery Streets)**

**DIRECTOR'S RECOMMENDATION: EXTEND THE DATE FOR THE PORT COMMISSION TO ENDORSE THE TERMS OF A REVISED DEVELOPMENT MEMORANDUM FROM JUNE 8, 2004 TO OCTOBER 12, 2004.**

## I. EXECUTIVE SUMMARY

The location of this project is on The Embarcadero, at the foot of Telegraph Hill, between Bay Street and Battery Street.

On January 13, 2004, the Port Commission by Resolution 04-07 approved a Second Amendment to the Exclusive Right to Negotiate (ERN) with S.F. Piers 27-31 LLC ("Developer"). As a condition to the Second Amendment, the Resolution requires the Developer to obtain Port Commission endorsement of a Revised Development Memorandum, including a "Revised Preferred Alternative Project" showing a site plan and program of uses, and associated financial terms. The ERN provided that if the Port Commission fails to endorse the Revised Development Memorandum by April 13, 2004, the ERN will automatically terminate.

In early April, the Developer requested a time extension to meet these targets and on April 13, 2004 the Commission exercised its authority to extend the time for performance to June 8, 2004.

**This Print Covers Calendar Item No. 6A**

Since the April extension approval the Developer has proposed further changes to the project in response to issues raised by Port staff, by the Port's Northeast Waterfront Advisory Group (NEWAG), and by business and community groups. However, as of the date of this Memorandum, the Developer has not formally submitted to the Port a proposed Preferred Alternative Project or a comprehensive financial proposal with meaningful backup materials.

In addition, the Port has experienced a change in its senior management. Staff requests an extension of the ERN with certain conditions described in this Memorandum.

Port staff recommend that the extension include three conditions:

(1) Require the Developer to submit its final Revised Preferred Alternative Project to Port staff by August 16, 2004 (including changes proposed by the Developer in response to negotiations with Port staff and community input).

(2) Require the Developer to submit a revised and complete proposal on the financial terms, with detailed pro formas for consideration as part of the proposed Development Memorandum by September 10, 2004.

(3) Require the Developer to provide additional reimbursable funds to support the Port's extended review of the project.

## II. BACKGROUND

The Port and S.F. Piers LLC ("Developer") are parties to an Exclusive Right to Negotiate agreement, dated June 13, 2001. Section 4.c of the ERN requires the Developer to prepare a plan of development for a Preferred Alternative Project according to a certain schedule and, once completed and approved by the Executive Director or her designee, to enter into a Development Memorandum. The ERN also includes certain Port Conditions, which the Port Commission required be met as a condition of its approval to award the ERN (attached as Exhibit A of this Staff Report). These 13 conditions reflect the major goals of the original RFP and Commission policies.

The original ERN required the Port and the Developer to enter into a non-binding Development Memorandum intended to "set forth the terms and conditions which must be agreed upon by the Developer in the proposed Lease before the Executive Director of the Port will recommend to the San Francisco Port Commission and the Board of Supervisors that the Lease be approved." In March 2002, the Developer and the Port's then Executive Director, Doug Wong, entered into a Development Memorandum.

Since the execution of the original Development Memorandum, the Developer has submitted several formal revisions to the Preferred Alternative Site Plan reflecting material changes to the project as a result of further study, regulatory changes and community or Port suggestions. The most recent Site Plan was presented to the Port Commission on June 24, 2003, following an action by the State Lands Commission on the project's consistency with the Public Trust Doctrine. In response to that action, the Developer proposed material changes to the project described in the Development Memorandum. The project continued to evolve as a result of regulatory evaluations by the WDAC/DRB (the Port's Waterfront Design Advisory Committee meeting jointly with the

Bay Conservation and Development Commission's Design Review Board). The Developer has also proposed more changes based on further dialogue with interested members of the public and its own analysis regarding the feasibility of uses.

On January 13, 2004, by Resolution 04-07, the Commission authorized the Executive Director to enter into a Second Amendment to the ERN, extending the term of the ERN through January 18, 2005. The Commission granted this extension to provide time for the extensive set of regulatory approvals needed from the Port and other agencies, including completion of an Environmental Impact Report, and Port Commission and Board of Supervisors approval of a Lease Disposition and Development Agreement with an attached form of Lease. The Second Amendment to ERN included the following interim Performance Benchmarks that were to have been satisfied on or before April 13, 2004 or the ERN would be terminated.

- Performance Benchmark #3 requires that no later than April 13, 2004 the Port Commission, in a public meeting, "endorse" a Revised Development Memorandum that establishes a Preferred Alternative Project that reflects the Port Conditions (unless modified or waived).
- Performance Benchmark #3 also states that the Revised Development Memorandum is to include, among other items, "material lease terms and rent terms with reasonable specificity, including without limitation, types and percentages of recreation-related trust retail, and the types of, and limitations on, predevelopment costs for which Developer receives a preferred return after payment of the Port's base rent."
- Related to this is Performance Benchmark #2, "Changes to Preferred Alternative Plan" which requires the Developer to provide pertinent information including, but not limited to... "(e) development cost projections; and (f) preliminary cash flow projections (including development costs and detailed operation pro formas for the first 10 years of operations)". These submittals were to be made within 45 days of a substantial change to the Preferred Alternative Plan.
- Performance Benchmark #6 requires at least two presentations on its Revised Preferred Alternative Project be given by the Developer to the Commission, one of which was to be made by April 13, 2004.

The Commission held a public hearing on April 13, 2004 on the Developer's request to extend the ERN. At the April 13 public hearing, the Commission agreed to extend the time for performance from April 13 to June 8, 2004. The Commission took note of the range of issues presented in public comment, including those concerning parking and traffic, and admonished the Developer to work to address the concerns raised in the hearing by the public.

## III. STATUS OF THE PROJECT

### Work Status of the Performance Benchmark attached to the January 2004 ERN Amendment:

- **#1 - Tentative Schedule.** The Developer met this requirement.
- **#2 - Changes to "Preferred Alternative Project".** Developer and Port have met almost weekly, to discuss evolving site plans and programs of uses, but Developer has not formally submitted its proposed Revised Preferred Alternative Project to staff. On June 1, 2004 the Port received an updated Piers 27-31 "Transportation Study". On June 2, 2004 the Port

advised Developer that Developer must provide a current site plan and program of uses prior to the June 8, 2004 Port Commission meeting.

- **#3 - Revised Development Memorandum**. Since April 13, 2004 Port and Developer have both met and held telephone conferences several times to discuss financial terms in detail. The Developer and the Port's economic consultant, Bay Area Economics (BAE), have communicated more extensively. However, as of the date of this Memorandum, the Developer had not submitted a comprehensive financial proposal that allows for a meaningful Port analysis. On June 2, 2004 Port staff advised the Developer that, prior to the June 8, 2004 Port Commission meeting, it must provide updated financial pro formas in the format requested by BAE. The requested pro forma must include specific assumptions regarding rent rates by type of use and square feet of uses, by year, and must include the anticipated participation rent to be paid to Port.
- **#4 - Community Outreach.** Developer held a major review of the project on March 31, 2004, just prior to the April 13, 2004 Commission meeting. An extensive meeting to review site proposals was held May 7, 2004 at the Port, at which both the Developer and members of "Citizens to Save the Waterfront" (CSW) discussed issues of parking and circulation, program, site arrangements and open space. The Developer restated its willingness to consider the issues and present alternatives for CSW review, including parking. If this extension is granted, the Developer intends to hold additional meetings over the summer. At the request of the Developer, SPUR (San Francisco Planning and Urban Research) is co-sponsoring a site walk-through of Piers 27-31 on Saturday, June 5, 2004 from 10:00 am. to 12:00 p.m. With the Developer's support, the Port staff have met independently with CSW representatives to discuss their issues and review their design and site proposals.
- **#5 YMCA Fundraising.** As required, the Developer presented a YMCA report to the Port in February, 2004.
- **#6 Presentations to Port Commission.** Such presentations will occur following completion of Benchmarks #1 through #5.
- **#7 Lease Disposition and Development Agreement and Lease.** Will occur following completion of the EIR and Benchmarks #1 through #6.

## IV. TASKS TO BE UNDERTAKEN DURING EXTENDED TERM

The proposed Resolution will require a number of important tasks to be completed prior to the Port Commission's October 12, 2004 meeting to consider the Development Memorandum. These tasks include the following:

- **A Revised Preferred Alternative Project.** In addition to the requirements set forth in the ERN, the Developer must submit updates to the Revised Preferred Alternative Project (both a program of uses and a site plan) reflecting all material changes resulting from significant regulatory review as described below. Based on negotiations with the Port and community outreach, the Developer must submit the final formal Revised Preferred Alternative Project to the Port no later than August 16, 2004.
- **Port Evaluations**. As required by the ERN, in order to evaluate the adequacy of the Developer's Revised Preferred Alternative Project and financial proposal, the Port staff will

evaluate the project against the 13 Port Conditions attached to the ERN (attached herein as Exhibit A).

- **NEWAG**. The Developer must present the project to the Northeast Waterfront Advisory Group (NEWAG) at least twice during this period, first by July 7, 2004 and at least one other time.
- **WDAC/DRB Review**. The Developer must pay an application fee to the Bay Conservation & Development Commission and bring the site plan before the Joint Port Waterfront Design Advisory Committee and BCDC Design Review Board to receive guidance before submitting the final Revised Preferred Alternative Project to the Port.
- **State Lands Commission**. In coordination with the Port, the Developer will present the project to the State Lands Commission staff at least once during this period, and more often, if needed, to review any changes of use and/or placement of uses to determine if such changes fall within the guidelines of the June, 2003 SLC determination concerning the public trust.
- **Fisherman's Wharf Advisory Group**. The Developer will submit the project to the Fisherman's Wharf Advisory Group for review.
- **Community Outreach**. The Developer will conduct outreach to other community groups, notably to representatives of Citizens to Save the Waterfront, which will be given an opportunity to review the project in addition to the review that will take place before the NEWAG.
- **Parking and Traffic Issues.** The parking and traffic issues associated with the project will be discussed in a community forum, at a minimum as part of a NEWAG presentation.
- **Embarcadero Transportation Plan.** The Developer has stated its willingness to take a leading role in assisting the Port, the City transit agencies, and other waterfront owners and tenants with an Embarcadero-wide Transportation Study. This study to address parking and congestion associated with forecast development along the Northern Embarcadero will be started during this period, but need not be completed. As noted in Part V, the Developer will provide funding for technical consultants.
- **Historic Tax Credits**. The Developer has not yet acquired its Part II or Part III approvals from the National Park Service (the Part III is not filed until after construction). During this period the Developer will complete the Part II Historic Tax Credit application to the National Park Service. As noted in Part V, the Developer will provide funding for a historic preservation planner in the Department of City Planning to assist the Port in its review and coordination with the State Historic Preservation Office and the National Park Service.
- **Development Memorandum**. Port and Developer will revisit and re-negotiate the financial terms in the existing Development Memorandum in light of the changing mix of uses proposed in the Revised Preferred Alternative Project and in light of the 13 Port Conditions and other regulatory reviews. The parties must agree in concept on all such material terms no later than September 10, 2004. As noted in Part V, the Developer will provide funding to support the Port's review, analysis and negotiating teams.

## V. PROPOSED TERMS OF THE TIME EXTENSION

At the time of the January 2004 ERN extension, the Port required and the Developer paid a $50,000 non-refundable Extension Fee. In addition, the Port required the Developer to pay a refundable $230,000 Transaction Cost Fee for expenses incurred by the Port in connection with

the Project for outside real estate and economic consultants (including those within the City that are paid by the Port, but excluding costs of Port staff), and for attorneys and legal staff.

In the prior ERN period, the Developer paid $30,000 toward the Transaction Cost Fee. The remaining balance of $200,000 was to be paid in four equal payments of $50,000. All but a fraction of the $200,000 is intended to fund legal services provided by the City Attorney. To date, the Developer has paid $130,000, with the remaining $100,000 payable over the course of the next two quarters in accordance with the ERN requirements.

In order for Port staff to carry out the necessary work on this project, the Port will require additional funding of the Developer, as noted above. Any unexpended funds will be returned. The funding will support tasks that either were not foreseen at the time of the initial ERN extension or that will require additional time required by this extension. The funding will support services procured from outside consultants or City staff but not those provided by Port staff in our ordinary course of business. These tasks and their estimated costs include:

- **Embarcadero Transportation Study**. The Planning Division has identified Nelson Nygard, transportation planner, as the most appropriate firm to provide the technical support to this task, described above. The Developer will be required to provide $20,000 in funds for this study. Such funds may be refunded as described below.

- **Historic Preservation Tax Credit Application**. To support the services of an historic preservation staff member assigned to the Department of City Planning, the Port will require funds to pay for a work order from the Port to City Planning. The Developer will be required to provide a total of $50,000 to cover the work order requirements for fiscal years 2004-2005 and 2005-2006.

- **Real Estate and Other Consulting Services**. To support the Port to complete negotiations on the Performance Benchmarks, the Port will require the Developer to provide $30,000 primarily for the services of Bay Area Economics (BAE). The BAE team also includes urban designers, architects, engineers and other consultants, who may be called upon for assistance as needed by the Port.

In the aggregate, these services are estimated to cost $100,000 in addition to the $100,000 still owed under the previous extension.

## VI. PROPOSED PERFORMANCE BENCHMARKS

Exhibit 1 to the attached Resolution contains the proposed Additional or Revised Performance Benchmarks for the extension of the time for performance of Performance Benchmarks #2 , #3 and #6. They cover submittals of the Revised Preferred Alternative Project, reviews by various community and regulatory authorities, revisions to the Development Memorandum, including revisions to proposed rent, community outreach program, and presentations to the Port Commission.

## VII. STAFF RECOMMENDATION

**Recommendation:** Section 4.e of the ERN states that the Port Commission reserves the right, at its sole discretion, "to waive or extend the times of performance of the Initial Performance Benchmarks and Additional Performance Benchmarks...." If, prior to June 8, 2004 the Port receives both an updated site plan (with a program of uses including their respective square footages) and an updated financial pro forma in the format requested by the Port, and if, prior to June 8, 2004 the pro forma includes at a minimum, assumptions regarding base rent, rental rates projected by uses, including square feet of uses, and the resulting participation rent from those uses over time, then staff recommend the Port Commission adopt Resolution 04-50.

The Port will return any unused funds to the Developer within 90 days after the termination of the ERN or close of escrow under the Lease Disposition and Development Agreement (LDDA).

## EXHIBIT A

## PORT CONDITIONS FOR PIERS 27-31 RECREATION PROJECT
## (as approved by the Port Commission on April 18, 2001)

1. The lease should include very specific use requirements for creating and retaining the RFP Required Uses throughout the lease term.

2. The lease should include very specific restrictions on the use of the retail space, restricting retail uses to active recreation-related uses and a very limited amount of other retail space.

3. There should be commitments from the developer to recreational programs and activities that are free to the public in both the indoor and outdoor spaces.

4. The maritime and recreational boating elements need to be further defined, clarified, and such uses should be developed to the maximum feasible extent.

5. Comprehensive detailed planning, including design and programming, of the Northeast Wharf Plaza is required to make this area usable to the public.

6. The developer should be responsible for all development costs of the project, including all utilities, public restrooms and open space, excluding only the rent credits as provided in the RFP (50% of the Base Rent for the first three years).

7. The developer should take the appropriate steps necessary to seek 20% Investment Tax Credits for the Rehabilitation and Restoration of Historic Structures to insure the preservation of the site's eligible structures in accordance with the Secretary of the Interior's Standards.

8. Negotiations required regarding terms of Port participation in sale and financing proceeds, and participation in historic tax credits.

9. Transportation issues:
   a. Through the environmental review process, specific transportation impacts and required mitigation measures need to be identified.
   b. Parking should be for short-term use only (not employee parking) with priority for users of the recreation facilities.
   c. The developer needs to work with the Port, MUNI and the Embarcadero Task Force to expand public transportation to the Site.
   d. The developer must develop and implement an effective Transportation Demand Management Program.

10. The development program should be changed to better address Required Uses, limit Permitted Uses so that they are ancillary, and eliminate uses not permitted. These changes should include:
    a. Significantly reduce the amount of office, retail, and eating and drinking space.
    b. Expand the interior space devoted to Recreational Enterprises.
    c. Add other or restructure Recreational Enterprises, so that all the active recreation uses are not operated by a membership club (San Francisco YMCA).

d. Do not add or expand other Permitted Commercial Uses, such as Assembly & Entertainment or Visitor Services.
e. Eliminate the Artisans'Gallery, which is not a permitted use.

11. The location of uses needs to be reorganized so that the entire open space network is activated. Commercial uses and open space need to be better integrated. Site planning changes are needed to address wind and shadow affects resulting from removal of the Pier 27 shed and construction of new building, as well as to address design guidelines.

12. Specific fund-raising milestones are required for San Francisco YMCA. Satisfactory guarantees of completion, including the YMCA building, are required from an entity other than one whose only asset is the lease for the Site.

13. The Base Rent, percentage rent and other rental must be at fair market and must comply with the terms indicated in the RFP.

**PORT COMMISSION**
**CITY AND COUNTY OF SAN FRANCISCO**

**RESOLUTION NO. 04-50**

WHEREAS, On January 13, 2004, the Port Commission approved by Resolution by 04-32, the Second Amendment to the Exclusive Right to Negotiate ("Second Amendment ERN") which extends the June 13, 2001 Exclusive Right to Negotiate (ERN) with S.F. Piers 27-31 LLC ("Developer") to January 18, 2005; and includes certain Performance Benchmarks attached thereto as Exhibit 1 (the "Performance Benchmarks"); and

WHEREAS, Performance Benchmark #3 requires the Port Commission to endorse a Development Memorandum, including a Revised Preferred Alternative Project and financial terms, in a public hearing no later than April 13, 2004; and

WHEREAS, Performance Benchmark #6 requires the Developer to present its Revised Preferred Alternative Project to the Port Commission at least twice during the ERN extension period, no later than April 13, 2004 and another no later than September 15, 2004; and

WHEREAS, On April 13, 2004 the Port Commission approved Resolution 04-32, to extend the times of performance of Performance Benchmark #3 and Performance Benchmark #6 from April 13, 2004 to June 8, 2004; and

WHEREAS, Since April 13, 2004, the Developer also met with Port staff regarding a revised site plan and the financial terms and conditions of a Revised Development Memorandum, but, to date, the Port and Developer have agreed neither on the Revised Preferred Alternative Project nor on a Revised Development Memorandum; and

WHEREAS, Section 4.e of the ERN gives the Port Commission the right, at its sole discretion, to waive or extend the times of performance of the Initial Performance Benchmarks and Additional Performance Benchmarks; and

WHEREAS, Certain costs associated with extending the time for performance of Performance Benchmarks #2, #3, and #6 will require funds to cover real estate and other consulting services; and

WHEREAS, Analysis of the Developer's Proposal Preferred Alternative Project will require the Port to incur costs with technical consulting support for an Embarcadero Transportation Study; and

WHEREAS, The Developer has not received approval from the National Park Service for a Part II Historic Tax Credit, and such approval will require the services of an historic preservation planner employed by the Department of City Planning at a cost of $30,000 during fiscal year 2004-2005 and $20,000 during FY 2005-2006; now, therefore, be it

RESOLVED, that the Port Commission hereby authorizes the Executive Director of the Port to extend the Time for Performance of Benchmark #3 in the Second Amendment to the Exclusive Right to Negotiate agreement through October 12, 2004, subject to the following conditions:

1. Payment, as scheduled, of the $100,000 remaining under January 2004 extension.

2. As a condition to the effectiveness of this extension, Developer shall pay Port $20,000 for preparation of an Embarcadero Transportation Study, subject to return of any unused funds in accordance with Section 3 of the Second Amendment to ERN.

3. As a further condition to the effectiveness of this extension, Developer shall pay Port $50,000 to support the services of an historic preservation staff member of the Department of City Planning for fiscal years 2004-2005 and 2005-2006, subject to return of any unused funds in accordance with Section 3 of the Second Amendment to ERN.

4. As a further condition to the effectiveness of this extension, Developer shall pay Port an additional $30,000 primarily for the services of Bay Area Economics (BAE) and its subconsultants. The BAE team also includes urban designers, architects, engineers and other consultants, subject to return of any unused funds in accordance with Section 3 of the Second Amendment to ERN.

5. In addition to the requirements set forth in the ERN, Developer will submit updates to the Revised Preferred Alternative Project (both a program of uses and a site plan) reflecting all material changes resulting from significant regulatory review. Developer must submit the last formal Revised Preferred Alternative Project to the Port no later than August 16, 2004.

6. In accordance with Section 4.d of the ERN, this extension shall be conditioned upon Developer's agreement to comply with the amended Performance Benchmarks attached hereto as Exhibit 1 of this resolution, which Performance Benchmarks shall replace the existing Performance Benchmarks in their entirety and be incorporated into the ERN.

7. If the Port Commission fails to endorse the terms of the Revised Development Memorandum as required by Performance Benchmark #3 on or before October 12, 2004, such failure will result in the termination of the ERN at such time, and be it further

RESOLVED, That the Executive Director is hereby directed to take all such further actions, including execution of documents in consultation with the City Attorney, as are necessary to implement the intent of this Resolution; and be it further

RESOLVED, That the Port Commission hereby authorizes the acceptance, appropriation and expenditure of funds received by Developer in accordance with this Resolution for the purposes set forth herein and in the Memorandum to Port Commission dated June 2, 2004 for this Item, and directs the Executive Director, or her designee, to take all such actions as is necessary including Board of Supervisors approval to permit the acceptance, appropriation and expenditure of such funds; and be it further

RESOLVED, That the Port will not enter into a final Lease Disposition and Development Agreement for the Project which would allow for its development until there has been complete compliance with the California Environmental Quality Act (CEQA).

***I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of June 8, 2004 .***

_____

Secretary

**EXHIBIT 1**
**PROPOSED ADDITIONAL AND REVISED PERFORMANCE BENCHMARKS FOR THE SECOND AMENDMENT OF THE ERN**

**[Capitalized terms have the meanings ascribed to them in the Exclusive Right, or if not defined therein, in the RFP]**

| BENCHMARK | TIME FOR PERFORMANCE |
|---|---|
| 1. **TENTATIVE SCHEDULE.** Developer and Port will agree on a tentative Schedule for the development of the Project including, without limitation, a timetable for Project design, regulatory approvals, community outreach, construction and lease commencement date; such schedule to be revised, as the project progresses. | Developer will continue to submit revised Schedules to Port staff, beginning no later than **June 18, 2004,** said schedule to be agreed upon by Port staff and Developer not less than every 30 days thereafter, unless requested by the Port to update in response to a significant event affecting the project. |
| **2. CHANGES TO PREFERRED ALTERNATIVE PLAN.** If the Preferred Alternative Plan is substantially modified after satisfaction of Performance Benchmark #3, particularly as a result of direction provided from a regulatory entity empowered to authorize such a change, the Developer shall provide pertinent information to illustrate those changes, including, but not limited to: (a) schematic or conceptual designs, general site plans, elevations, and perspective drawings, models, photographs or other representations showing the general design and space allocation; (b) general location of uses; (c) circulation plan; (d) landscaping; (e) relationship of the Project to its surroundings (such designs shall directly address the Port Conditions pertaining to the design and programming of the Project); (e) development costs projections; and (f) preliminary cash flow projections (including development costs and detailed operation pro formas for the first 10 years of operation). Such information shall address any changes affecting the YMCA Facility and the Northeast Wharf Plaza, as well as any changes to the Integrated Recreation Plan prepared under the First Amendment to the ERN Agreement. | (a) through (d) within 45 days of a substantial change, (e) and (f) within 60 days of a substantial change. |
| 3. **REVISED DEVELOPMENT MEMORANDUM.** The Port Commission | **No later than October 12, 2004.** |

| BENCHMARK | TIME FOR PERFORMANCE |
|---|---|
| has taken action in a public meeting endorsing a revised Development Memorandum that establishes the Preferred Alternative Project for purposes of regulatory review and Lease negotiations, reflecting the Port Conditions (unless such conditions are modified or waived by the Port Commission, in its sole discretion, in response to public trust or other regulatory agency concerns), the matters described in the original ERN Performance Benchmark Nos. 5,6, 7, 8, and 15, and after presentation to the Port's Waterfront Design Advisory Committee, BCDC staff, the Ferry Building-Northeast Waterfront Advisory Committee, and the Port Commission. The Development Memorandum shall also establish material lease terms and the rent terms with reasonable specificity, including without limitation, types and percentages of recreation-related trust retail. (The provisions of such revised Development Memorandum as they are incorporated into the final Lease remain subject to final approval by the Port Commission and Board of Supervisors after completion of environmental review, each in their sole discretion). | |
| 3.a **WDAC/DRB REVIEW**. Developer shall pay an application fee to the Bay Conservation & Development Commission and bring its proposed site plan before the Joint Port Waterfront Design Advisory Committee and BCDC Design Review Board to receive guidance. | **Prior to** submittal of the Final Revised Preferred Alternative Project required under Performance Benchmark 3.b on **August 16, 2004**. |
| 3.b **SUBMITTAL OF FINAL REVISED PREFERRED ALTERNATIVE PROJECT.** Based on Developer's community outreach efforts and its negotiations and areas of conceptual agreement with Port staff, the Developer shall submit its detailed Revised Preferred Alternative Project to the Port's Executive Director for consideration as part of the proposed Revised Development Memorandum. | No later than **August 16, 2004**. |

| BENCHMARK | TIME FOR PERFORMANCE |
|---|---|
| 3.c **SUBMITTAL OF FINAL FINANCIAL PROPOSAL.** Based upon negotiations and agreements with Port staff as to the programmed uses, site plan, and financial structure, Developer shall submit its detailed revised proposal on the financial terms, with detailed pro formas in such form as reasonably requested by Port or its consultants, for consideration as part of the proposed Development Memorandum. | No later than **September 17, 2004** |
| 3.d **STATE LANDS COMMISSION STAFF CONSULTATION.** In coordination with the Port, Mills will present the project to the State Lands Commission staff at least once, and more often, if needed, to review any changes of use and/or placement of uses to determine if these changes fall within the guidelines of the June, 2003 SLC determination concerning the public trust. | **Prior to** submittal of the Final Revised Preferred Alternative Project required under Performance Benchmark 3.b on **August 16, 2004** |
| 4. **COMMUNITY OUTREACH.** Developer and Port have agreed upon community outreach program and Developer has met goals of program in timely manner; during the period of the ERN extension this program will continue as agreed. In addition, Developer will offer to meet with the Northeast Waterfront Advisory Group (NEWAG) no fewer than four (4) times, and present the project to the Port's Fisherman's Wharf Advisory Group (FishWAG). | **No later than July 7, 2004**, and at least **one other time** prior to October 12, 2004, Developer shall present the Project to Ferry Building-Northeast Waterfront Advisory Group (FB-NEWAG), and thereafter, during the remaining term of the ERN, no fewer than every 90 days Developer shall so present, for review, comment and question, provided that Developer will not be held in default if, through no material default of Developer, the Northeast Waterfront Advisory Group fails to meet, or fails to request attendance of the Developer at its meetings at such times during the Second Amendment of the ERN. Developer shall present the proposed project to the FishWAG at least once, with the first presentation occurring **no later than the FishWAG's first meeting in August 2004.** |
| 5. **YMCA FUNDRAISING.** Developer and the YMCA shall report to Port staff at least every three months during the Second Amendment of the ERN, the non-confidential details of the YMCA's fundraising activities, including number of persons contacted and response, future planned fundraising activities, changes in the fundraising program, and other information reasonably requested by Port. | No later than each of the following dates during the Second Amendment of the ERN: **March 31, 2004; June 30, 2004, September 30, 2004, and December 31, 2004.** |

| BENCHMARK | TIME FOR PERFORMANCE |
|---|---|
| 6. **PRESENTATIONS TO PORT COMMISSION**. Developer will present its revised Preferred Alternative to the Port Commission at least twice **during the remainder of this ERN extension** period. | No later than **October 12, 2004** for the first presentation, and no later **than January 18, 2005** for the second presentation, provided that Developer will not be held in default if, through no material default of Developer, the Port Commission fails to hear the matter at one of its meetings within these dates. |
| 7. **LEASE DISPOSITION AND DEVELOPMENT AGREEMENT AND LEASE**. Developer and Port shall reach final agreement on the form of Development Agreement and Lease and all exhibits thereto. | The earlier of (1) certification of the Project EIR by the Planning Commission, or (2) expiration of the Second Amendment of the ERN. |

# SAN FRANCISCO
# PORT COMMISSION

DOCUMENTS DEPT.

JUN 18 2004

SAN FRANCISCO
PUBLIC LIBRARY

## JUNE 8, 2004
## MINUTES OF THE MEETING

**MEMBERS, PORT COMMISSION**

HON. WILFRED HSU, PRESIDENT
HON. MICHAEL HARDEMAN, VICE PRESIDENT
HON. KIMBERLY BRANDON
HON. SUE BIERMAN
HON. ANN LAZARUS

**MONIQUE MOYER, EXECUTIVE DIRECTOR**

# CITY & COUNTY OF SAN FRANCISCO
# PORT COMMISSION

**Wilfred Hsu, President**
**Michael Hardeman, Vice President**
**Kimberly Brandon, Commissioner**
**Sue Bierman, Commissioner**
**Ann Lazarus, Commissioner**

**Monique Moyer, Executive Director**
**Phone: 415-274-0400; Fax: 415-274-0412**

**Amy Quesada, Commission Secretary**
**Phone: 415-274-0406; Fax: 415-274-0412**

## MINUTES OF THE REGULAR MEETING
## JUNE 8, 2004

### 1. CALL TO ORDER / ROLL CALL

Commission Vice President Michael Hardeman called the meeting to order at 3:10 p.m. The following Commissioners were present: Michael Hardeman, Kimberly Brandon, Sue Bierman and Ann Lazarus. Commission President Hsu was absent.

### 2. APPROVAL OF MINUTES - May 25, 2004 Meeting

ACTION: Commissioner Brandon moved approval; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor; the minutes of the May 25, 2004 meeting were adopted.

### 3. EXECUTIVE

A. Executive Director's Report

Executive Director Monique Moyer welcomed new Port Commissioner Ann Lazarus to the Port. She then reported the following:

- City Budget Process: The Board of Supervisors budget committee is scheduled to discuss the Port's budget on Tuesday, June 16, at 10 a.m. The Port is the third or fourth department that will be heard that day. It will the first of the committee's two hearings on the matter. The second meeting will be a week or two later. The Board of Supervisors has to act on the budget in July so the Mayor could sign it by August 1st. Staff will be attending the hearing and she invited the Commission to attend as well.

- BCDC/Fisherman's Wharf Plan: Over the last 18 months, the Port and BCDC have worked on correlating the policies and procedures of the Port with BCDC with respect to development and/or maintenance structural work in the Fisherman's Wharf area. A lot of progress were made but at some point, the conversations turned to issues that extend beyond the ability of that committee to continue. At the BCDC

meeting last week, their staff presented to the Commission the progress of the committee to date. Port staff was thankful that BCDC staff made the presentation as it gives our staff better guidelines about what we will be doing forward. We don't' have to guess about what BCDC's reaction will be or our reaction will be if tenants do various things. The work is not completely done but it is a good basis for the start of the work.

Commissioner Brandon asked what's going to happen to the planning process at Fisherman's Wharf. BCDC wants to stop the process but the Port has not resolved any of the issues that originally started the process for the committee.

Commissioner Bierman seconded Commissioner Brandon's comments. A lot of hard work has gone to it. She feels that the process was just left hanging. She would like to see a final report on the matter.

Diane Oshima, Planning & Development, indicated that the BCDC Commission reviewed and accepted a BCDC staff report describing the joint BCDC/Port Committee recommendations resulting from this public planning effort. The recommendations describe open space, traffic and parking improvements that provide a vision as to how the central Wharf area can become more attractive and inviting to visitors and locals. Commissioner Bierman, who served with Commissioner Brandon on the joint BCDC/Port Committee, attended the meeting with Planning & Development staff, and presented a letter from the Port supporting further efforts to realize these improvements, and to seek BCDC's support in establishing a fill bank that will facilitate future permitting necessary to allow the repair of Fisherman's Wharf Port restaurants in BCDC's jurisdiction. The BCDC Commission and staff were receptive, and the Port will continue to follow- up on this matter. The Port is in the process of finalizing a report of the Committee Recommendations, which will be presented to the Commission and public in July.

- Cruise Ship Berthing Agreement: This is the first time that the Port has a formalized agreement with the cruise ships that call in San Francisco. The Cruise Terminal Environmental Advisory Committee (CTEAC) was formed a year ago. They have been working hard to come up with criteria which would be the minimal criteria that the Port would want with respect to environmental codes of behavior for cruise ships that enter into the bay and dock at the Port. What's historic about the agreement, which the cruise ships have agreed to for this season, is that it obligates the ships to inform the Port if they have discharged into the bay, legally or illegally. Right now, if they discharge legally, the local jurisdictions are not always informed as there is no obligation to inform the local jurisdictions. This would set a standard by which the Port would not only be informed but also have the ability to respond. There is a penalty if a cruise ship violates its agreements. If a ship discharges three times within a 24-month period, staff would rescind their right to stop at our Port. This is a very big step forward in the U.S. environmentally. She commended staff and the task force for their work.

**4. ENGINEERING & MAINTENANCE**

A. Informational Presentation and Public Hearing on the Sale of Pile Driver Rigs #2 and #3 to the Amador Sawmill and Mining Association.

Deputy Director Alex Lee stated that the Port's maintenance operation is responsible for 7.5 miles of the waterfront with thousands of piles, over 4 million square feet of wharf space over water. Three and half a years ago, they realized that without replacing the existing piledrivers #2 and #3, their ability to maintain the wharf and the piles will disappear. Once the equipment ceases to function and needs constant repair, the Port would need a lot of resources to keep the equipment from failing. Since then, Guadalupe Thomas, Maintenance Superintendent, has worked tirelessly to obtain two surplus piledriving rigs from the U.S. Navy at a very reasonable cost to the Port, which led to staff's decision to no longer use piledrivers #2 and #3. In the meantime, there was a concerted effort to transfer the piledrivers #2 and #3 to a non-profit organization for its preservation. Staff has been working with different groups for two and a half years and it was the last option to transfer it to the Amador Sawmill and Mining Corporation, a non-profit company. It was difficult for the Port, with its resources, to preserve the piledriving rigs. The Maintenance department was able to obtain two new piledrivers at low cost to the Port to continue to maintain the waterfront.

Assistant Deputy Director Diane Oshima reported that the two piledrivers have been in used since 1951. They essentially exceeded their lifetime of service. They were in a deteriorated condition. As a result, they were becoming an ongoing liability for the Port to maintain aside from the maintenance cost that were estimated at $400,000. Despite the fact that the Port was not successful in trying to convey at least one of the rigs to the Copra Crane and Labor Fund Association, Tom Peterson and Guadalupe Thomas of the Port's maintenance department worked very hard to convey the rigs to that group. The problems were essentially with the day-to-day practicalities of liability. The group did not have the resources to sustain the insurance requirements needed to keep the resources tied up in the Port's facilities. In their deteriorated condition, the rigs were subjected to vandalism. They were easily accessible; people could climb to the holes or to the top of the rigs and they posed real risk of injury or worse. Because of the cost of trying to meet those needs, it far exceeded the resources of the Copra Crane Association. Port staff also looked at the National Maritime Park Association at the Hyde Street Harbor if they could take at least one of the rigs as an exhibit. They were knowledgeable about the requirements for maintaining the vessels. Unfortunately, they, too, did not have the resources. In the meantime, the Amador Sawmill and Mining Company approached Maintenance staff and inquired about the ability to obtain these resources because of the machinery and equipment were valuable to their objective which is to preserve exhibits that represent historic sawmill and lumber industry in Northern California. Because they were dismantling the pile rigs, they did not face the same kinds of insurance and liability issues that the preservation of those rigs would have required for the Copra Crane Association. Because they were also willing to take on all the responsibilities for environmental disposal, the decision was made by the Maintenance staff to move forward. It is regrettable that we had to let them go but in light of the big picture issues facing the Port and Maintenance and expenses and liability concerns, the decision was made.

Commissioner Hardeman indicated that piledrivers #2 and #3 were only capable of going

approximately 15,000 pounds of force while the new ones are capable of going approximately 42,000. The new rigs have more powerful force.

Ms. Oshima noted that the Port has hired an architectural historian who took photographs of the pile rigs.

Archie Green, waterfront historian, indicated that the issue of the piledriving rig is far bigger than the rig, bigger than the Port. Today, the rig is a symbol of public officials' and citizens' inability to take care of valuable, irreplaceable, historic resources. His book, Torching the Fink Books, is published at the University of North Carolina Press. It's about an incident that occurred on the waterfront in 1934 at the Matson Piers. At that pier, there was a tremendous struggle between forces for justice and forces for slavery. Luckily, the forces for justice won out. They saved the dignity and honor of the working people working on the waterfront. He does not want their memory to be wiped out. He does not want them rendered into insignificance. When the Port decided to sell those rigs, it was not just selling two obsolete rigs, it was selling the very souls of the piledrivers, ironworkers that worked on the front. There is no memorial at the Port. They are only remembered by the docks and the piers they built. They are remembered by their labor. They are anonymous. When all of the Port becomes a real estate operation, where do they belong? In 1941, Mr. Green worked on the predecessors of these two rigs, at Brewer and Seymour where the PG&E station is located. They crawled under that rig and removed the sheeting. It was one of the hardest jobs he had ever worked. He worked there with a degree of pride. He felt fortunate that he was able to contribute his labor power and knowledge. In the effort to preserve the rigs, they were conscious of the fact that they were old, obsolete, represented labor, energy, labor process that was no longer in play. They should have been saved as a symbol of the work that was done in pre-mechanized days. They have pictures of rigs in 1850, one year after the Gold Rush, these kinds of rigs were used then. These rigs were used thousands of years ago. That kind of a memory should not be wiped out with the decision that the insurance can't be paid. He pointed out that the firemen in San Francisco maintains a museum out of firemen's funds. Other activities in San Francisco have equivalent museums such as the Muni Railway. It honors the old cable cars. Why can't the Port accept its historic responsibility. Why can't it select an artifact that deserves recognition and deserves preservation. For two years, their various non-profit associations tried to deal with the Port. They had some progress in dealing with people who understood the rigs. An attorney represented the Port in the negotiations and told them that they have to pay the insurance ($25,000 a year) when he knew they couldn't pay the insurance. A group of citizens dedicated to preservation cannot come up with that kind of money. They made a counter proposal, the Port maintains legal ownership of the rigs and they, union people, through an apprenticeship program, will maintain the rigs. They thought it was a reasonable offer subject to negotiation. The lawyer sat there with a look on his face that what they have to say was unimportant and that the Port will get rid of the rigs whether they like it or not. It was fait accompli. The Port sold the rigs to a museum in Amador County that consists of a few individuals who are saving donkey engines. There were thousands of donkey engines from Marin County to Alaska. Every lumber camp has a donkey engine. That company destroyed the rigs to save a couple of old donkey engines. The Port should be ashamed of what it has done.

Tim Kelley pointed out that the first of his concerns has to do with the clarity of the transparency of the decision making that went into the disposal of the rigs. He's sure that Ms. Moyer will not tolerate anymore of this. The decision making needs to be examined. You can see it by the staff report to the Commission. Maintenance justifying it and then Planning coming in to make the excuses. The fact of the matter is that those were identified as National Register eligible resources and the Port had a responsibility under CEQA to treat them properly. There was no public process and he asked why there was none on this matter. In the staff report, a statement was made that Amador County Sawmill Society was willing to take all of the environmental responsibilities. In fact, that organization could not take over the responsibilities. The responsibility was at the Port as a lead agency to deal with these things as historic resources. He also pointed out additional information on the rigs has surfaced now after the fact. They were told that they were 20 years younger than they thought. The point for CEQA is the knowledge at the time the action was taken. Besides, 1951 or 1930 doesn't really affect the question of whether they were historic resources. He asked about the nominal amount that the rigs were sold for. How much was the contract that was let after the fact in order to cover the tracks. Why wasn't that money available to help preserve the rigs. Once they were out of the way, there was money available that had not been available during the negotiations with the local organizations. He complimented the staff report on the delicacy of the language, particularly the dismantling phase, which was a nice way of saying the rigs were smashed in order to take a couple pieces of machinery out of the interior. He has been involved in the National Register Nomination Advisory Committee. Although it is a commendable effort, all through that process, there had been hints that the Port was not willing to go with the actuality of this historic resource process. This is yet another evidence of it. He asked what the Port will do to avoid repetition of this in any form. The Port has all sorts of obsolete facilities that are inconvenient that have historical value.

Commissioner Bierman was appalled that the item was not brought to the Commission for action or as an informational item.

Diane Oshima indicated that the focus so far of the Port has particularly been on trying to repair and restore structural and architectural resources along the waterfront. The Port does not have an inventory of maintenance equipment or artifacts like it does with piers and pile supported structures. The Port does not have an inventory of equipment and other artifacts that are not real estate or land. That's one of the shortcomings that staff is struggling with. On the pile driver rigs, they were called out in the historic district nomination report not as a contributing resources within the district per se but there is a whole chapter in the historic district nomination report that focuses on waterfront labor history in particular and tells a magnificent story about the different attributes of waterfront labor. In the course of that discussion, there's a section that talks about pile driving and what it took to build the piers and maintain them. In that context, pile drivers #2 and 3 are incorporated into that discussion. Whether there was a requirement for public process, that is something that staff needs to take to heart. There is a need for staff and the Port to figure out another process to ensure that this does not happen again. Ms. Oshima indicated that she does not have an explanation to tell the Commission that everything went the way that it should but she staff is regretful and hopes to do better next time.

Commissioner Bierman indicated that she was appalled. If Harry Bridges and Jimmy Herman were alive, this would have never happened. She hopes that a lesson has been learned. She was appalled that this item was not brought to the Commission. The Commission is supposed to look at the historical importance and to ignore the Commission is alarming and insulting.

Commissioner Brandon asked about the process of disposing equipment. Mr. Lee replied that the process lies within the City Purchaser's office. Once the Purchaser's office declares it as a surplus, the equipment is disposed of through the City Purchaser's office. The disposal of the piledrivers were handled through the Purchaser's office.

Commissioner Bierman asked if anybody involved in the process knew that the rigs were historically significant. Mr. Lee replied that staff recognized that there was some value to it and tried to work with two local groups to have them take over the preservation effort, but there was a bureaucratic roadblock to transfer the ownership of the pile drivers to the groups. Maintenance staff was fearful that it would become an environmental hazard if it ever sank at the Port.

Ms. Oshima indicated that the contract with ARG is in the neighborhood of $9,000 for photo documentation which was done in due haste to ensure that the photographs were taken before the Sawmill Association dismantled them. In light of today's discussion, staff needs to figure out some kind of process to start addressing some of the questions.

Commissioner Brandon commented that it's fine to go through the City Purchaser's process but items of historical significance should be brought to the Commission before staff decides to go through the City Purchaser. Ms. Oshima concurred and stated that this should have been done with the piledrivers but there may be others where the gray area is grayer. It's a concern how to make those calls and define what those resources are.

Ms. Moyer indicated that most City departments have policies with respect to surplussing real property and moving stock. She guessed that since the Port is restricted from surplussing property, it's not something that the Port has addressed in its history. She suggested that we come up with a policy. As part of the budget, in her authority, she surplussed some of the vehicles that the Port was using. They are going through the City Purchaser's process for sale with return of proceeds back to the Port's General Fund. The Port needs to come up with a policy that would allow us to continue to make those operational decisions and bring to the Commission the policy decisions. Staff can do that fairly readily. The Port is dedicating a tremendous amount of resources to come up with a catalog of historic buildings. The Port is working on coming up with the entirety of the deferred maintenance. The Port has existed for a century without cataloging any of its assets. That is a fundamental problem with the Port that cannot be fixed overnight. Staff has been working on this for several years. This is 7.5 miles of assets dating back for a century and we have by comparison, very little resources dedicated to it. Mistakes have happened and will happen. Staff will work on an appropriate policy to prevent this from happening in the future.

Commissioner Hardeman indicated that this item will be brought back to the Commission

in the next couple of meetings. Ms. Moyer indicated that she will have to figure out her priorities before she would make that commitment, she would certainly add it to the list.

Commissioner Hardeman indicated that when Commissioner Hsu returns he could appoint one of the Commissioners to work with the Director. Ms. Moyer concurred and added that in a future meeting, she will put it on the forward calendar since staff has an enormous amount of work to do this summer. Staff will not be surplussing any other property until the policy is established.

Commissioner Bierman asked how much the rigs were sold for. Mr. Lee replied that the nominal fee was $100 per unit. Commissioner Bierman indicated that to sell a landmark for $100 makes her cry.

Commissioner Hardeman indicated that there was a recent problem at the Port where a drydock was blown away. The Commission was very upset with the drydock and it cost the Port so much money. He was sure that the overriding factor for staff's decision was the safety of the rigs. He was not making any excuses for staff's action but if the drydock problem hadn't occur, may be this situation wouldn't have happened.

Commissioner Brandon commented that in that situation, staff sought Commission's approval before disposing the drydock..

B. Request for approval to authorize staff to advertise for competitive bids for the construction of the Pier 43 Arch Improvements at Fisherman's Wharf, Contract No. 2687. (Resolution No. 04-47)

Project Manager Mojgan Yousefkhan requested Commission's authorization to advertise the Pier 43 Arch Improvement Project. Pier 43 Arch is a historic structure located at Fisherman's Wharf. The main goal is to protect and to preserve the beautiful structure. Port staff was successful in receiving insurance funds and restoring the arch. At this time, staff is ready to move to the next step, which is to protect the Pier foundation and structure and provide architectural lighting for the arch. The estimated cost of this construction is $300,000. This project will be funded through a grant and Port capital fund. The Federal Highway Administration has already obligated $250,000 for this project. The Port's Capital Planning Committee has approved the expenditure of $45,000 from the Pier Repair Fund for this project and this fund has already been encumbered.

ACTION: Commissioner Brandon moved approval; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor; Resolution No. 04-47 was adopted.

C. Request for approval to authorize staff to advertise for competitive bids for the Pier 94 Wetland Enhancement Project, Contract No. 2694 (Site location: Between Pier 94 and Islais Creek) (Resolution No. 04-48)

Project Engineer Ken Chu indicated that in December 2002, the Port Commission approved acceptance and expenditure of $171,000 in funding from the San Francisco Bay Natural Resources Protection Trust for construction of the project. The project

construction includes removal of debris, earthwork, excavation and removal of fill to create 1.5 acres of new wetlands and construction of post and cable fence to mark the area. The project scope is divided into base bid and alternative bid. Staff plans to complete the construction by October 15, 2004. He asked Commission's authorization to advertise the project for competitive bids.

ACTION: Commissioner Brandon moved approval; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor; Resolution No. 04-48 was adopted.

## 5. ADMINISTRATIVE SERVICES

A. Request for authorization to negotiate and award professional services contract for the underwriting of the Port of San Francisco Revenue Refunding Bonds, Series 2004. (Resolution No. 04-49)

Finance Manager Chudi Chuba requested Commission's approval to authorize the Executive Director to negotiate and award the professional services contract for the underwriting of the Port's Revenue Refunding Bonds to Seibert Brandford Shanks & Co. as Senior Managers and Backstrom McCarley Berry & Co. as Co-Managers.

Port staff informed the Port Commission of its intention to refinance the existing bonds in order to save its debt service payments. On March 23, 2004, the Commission authorized staff to issue an RFP for the underwriting service. Staff has formed a refinancing team comprised of the Mayor's Office of Public Finance, the City Attorney, the Port's Financial Advisor and Bond Counsel. The award of the underwriting contracts will complete the Bond financing team and facilitate refinancing of the outstanding bonds. Staff developed the RFP with the help of the Mayor's Office of Public Finance. On May 11, 2004, Port staff emailed the RFPs to approximately 31 underwriting firms and a notice was placed in both the Port and City's website. On May 20, 2004, the team conducted a pre-proposal conference. On May 24, 2004, the Port received twelve responses. Representatives from the Port, Mayor's Office of Public Finance, Airport Business & Finance as well as the Port's Financial Advisors evaluated the 12 written proposals. A Human Rights Commission representative assisted in the process but did not participate in the rating. On June 3, 2004, the team interviewed four of the highest scoring proposals. Staff concluded that based on the combined scores of the written and oral interview, Siebert, Brandford Shanks & Co and Backstrom McCarley Berry & Co scored the highest and therefore staff recommends awarding the underwriting contracts to the two companies. Port staff has determined that the two companies fully comply with all City contract requirements. Staff anticipates that the contract will take approximately six months or as long as it takes to complete the refunding of the bonds. Staff intends to negotiate the fees with the underwriting firms. However, the combined fees for both firms shall not exceed $6.00 per $1000 bond.

Commissioner Brandon asked if only the existing bonds will be refinanced, how much is being refinanced and is staff asking for additional cash. Mr. Chuba replied that the amount to be refinanced is approximately $23 million. Refinancing the bonds will save the Port approximately $600,000 to $700,000 a year on its debt service.

Ms. Moyer indicated that this is a little bit of an unusual process. With the City, it's customary to have the selection of the underwriter also approved with the structure for the refinancing. These are tax exempt bonds. In the eyes of the IRS, it's a tax shelter for investors. They don't pay taxes on the income they receive from the investment. The IRS is touchy how often you can access the subsidy and they have restrictions that prevent the Port from multiple financing. The Port in 1994 refinanced these bonds. These bonds were originally issued to purchase the Gantry cranes. There's still 5 years of payment left. The Port will refinance the bonds from interest rates set in 1994. By comparison today, interest rates are about half of what they were ten years ago. Staff is not anticipating borrowing any additional funds other than what is necessary to refinance the bonds. It is her hope that the Port can get enough savings. As she mentioned at the last meeting, she's planning on using those annual savings to fund salaries. At some point, it is her hope that the Port again can use its balance sheet to leverage money for important projects. As part of this refinancing, the Port will need to get a rating from the rating agencies. The Port is already on negative outlook and our financial situation has worsened. It's not 100% that the Port can borrow new money at this point so that is not part of the recommendation. The whole plan of finance will be brought to the Commission at the next meeting.

Commissioner Brandon indicated that usually the Commission receives more information regarding the selection process. She asked how the 12 firms were downsized to 4, the rank of the firms, what differentiated those four firms from the others and how the winning firms were chosen. She also asked why there is a manager and co-manager instead of just having one.

Mr. Chuba replied that in terms of manager and co-manager, when the RFP was formulated, it gave the proposers an opportunity to propose for either or both. After the proposals were received, the team evaluated and ranked the proposals accordingly and selected the highest four companies.

Ms. Moyer indicated that as to the process, she asked the Mayor's Office of Public Finance (MOPF) to lead this undertaking for the Port. The Port borrows and enters into the municipal market once a decade. It does not by any means make them experts nor it would be a good use of the Port's resources because experts in municipal finance are expensive. The Mayor's Office of Public Finance, however, enters the bond market 4 or 6 times a year. This is what they do for a living. The process for selection was a process that has been devised and refined in the last seven or eight years with the help of the heads of the HRC (which was formerly Zula Jones, now Virginia Harmon and Johnnie Robinson who was Mayor Brown's aide). This is a process that has been used very successfully by the MOPF over and over again and has been emulated by the Airport in its selection, the Public Utilities Commission and the Redevelopment Agency by their selection. It is entirely feasible for any one firm to do this underwriting by itself. $23 million is not an incredible amount of money. By definition, the amount of capital that an underwriting would have to have would allow them to inventory the bonds. They would purchase them from the Port and they will resell them to investors. Those investors might be individuals, mutual funds, etc. They have to have the financial wherewithal to be able to hold $23 million until they find buyers. The Securities Exchange Commission and the Municipal Securities Rule Making Board, they concern themselves whether a firm has the capacity to

do that but we don't have to as issuers. However, the City has had a long standing process of trying to work as many firms as possible. This is a mecca on the West Coast. San Francisco and Los Angeles are home to a number of firms and the service is just as good if multiple firms or just one firm is used. To that end, the Port could also use just one rating agency instead of multiple rating agencies. It's a policy decision. When she worked at a woman owned firm, she was not a big fan of joint ventures (JV) because in a JV, the majority gets the paycheck and the majority firm doesn't always pay the minority firm in a timely manner. The majority firm frequently has been known not to share the work in an appropriate manner. The way the Mayor's office has structured its process and has been emulated by other City departments is to contract directly with the firms they hire rather than on a JV basis. In that way, the minority firm and the majority firm participate equally according to their capabilities. One caveat to that is that the City does have a policy for a very high errors and emissions insurance and they try to work with smaller firms to avoid having to spend money on that insurance unnecessarily.

Ms. Moyer indicated that given the fact that the Port is refinancing only $23 million, 5-year bonds, the 12 responses received for the RFP is a very good response. By comparison, the State of California is refinancing $11 and $12 billion. The capital market for municipal bonds is $350 billion with trades on a frequent basis. The RFP was advertised and written proposals were due and 12 firms responded. There were 4 panelists who scored and based on the scores over the written, the various firms were aligned according to their scores. HRC's job is to oversee this process; their job is to make sure that the panelists don't have conversations with respect to how they score in advance. In her experience as an investment banker and issuer, the City's process is far more stringent than other jurisdictions. It is not uncommon in other jurisdictions for everybody to sit in the room, discuss the proposals, and score as a group. In the City, that is not allowed. If the teams qualified for bonus points or preference points, those were added to their scores. Two firms qualified for those points. The panel looked at the basis of the scores, looked at the time available to hold oral interviews and determined that they would interview the top four candidates based on their scores.

Commissioner Hardeman asked if the preference points were 10%. Ms. Moyer replied that 10% bonus points were added to certain candidates. There was a 5% bonus point for local business enterprise but none of the teams qualified. Oral interviews were held last week with the four firms. After the written and oral scores were combined, the bonus points were added. The panelist's recommendation was to hire two firms.

Ms. Moyer indicated that the challenge for this panel was San Francisco is home to a lot of very good quality firms. Their job was to pick them according to how they do on that day. Any one of the firms could do an admirable job on the Port's behalf.

Commissioner Brandon asked how pricing fits into the equation. Ms. Moyer replied that the City's policy, as set by HRC, is that a price proposal is submitted in a sealed envelope (only one copy). While there were 4 panelists, they do not get the price proposal. The HRC's goal in that respect is that in their view smaller firms have higher overhead per transaction. They don't want smaller firms to be discriminated against based solely on pricing. For many years, the City's practice has been not to score based on price but rather

to receive prices. In that way, it is known what the market place thinks the services are worth so after the reward is made, the price can be negotiated. Hence, the resolution includes a not to exceed price per bond.

Commissioner Brandon asked if the sealed bid only applies to bond financing. Ms. Moyer explained that there are different rules for architectural projects, construction projects, etc. This is a Request for Proposals for negotiated underwriting service. The City also sells bonds by a competitive bid which is where you just simply bid the interest rates and whoever is the lowest, wins. The Port is not a household name for investors. There's not a lot of liquidity in its bonds. The people who bought the Port's bonds in 1994 were from the region. The money market funds in the East Coast do not understand why the Port is not in the container business. For this process, a sealed bid could have been done but having underwriters pre-sell the bonds and drum up demands is better for the Port in the long run.

Commissioner Lazarus asked where the two firms are headquartered. Ms. Moyer replied that Siebert Brandford Shanks is headquartered in Oakland and Backstrom McCarley Berry is from San Francisco. Ms. Moyer commented that it's very rare to see tremendous participation from small firms when they're competing head to head with majority firms. With regards to the revenues and the assets of these firms, there's a huge chasm between the amount of money they have and the multi-billion dollars that a Citicorp, a Bank of America or Merrill Lynch has. She was happy to see how well they did and credit that to the fact that they worked very hard to know the Port and present well to the Port.

Commissioner Lazarus asked if either of the firms were involved in the original issuance of the bonds ten years ago. Ms. Moyer replied that the senior manager of the bonds in 1994 was Lehman Brothers and the co-manager was Smith Mitchell Investment Group.

Commissioner Brandon indicated that since there were 12 great responses, why was staff not focusing more on who's going to get the Port the best price. Ms. Moyer replied that it's the staff's job to negotiate the price on the day we enter the market. The Port retained a financial advisor to assist staff in the process because the comparable for where the bonds will sell is going to be based on the day that we enter the market. It's not known what the bonds are going to be rated. This is the process in a negotiated underwriting. In other jurisdictions, they are allowed to score based on price but that's not HRC's rules. In other jurisdictions, firms under bid the price because it doesn't matter what they put in the RFP 3 months in advance of actually being in the market. The capital market will change for the better or for the worse. It's like deciding three months in advance to sell your house, and then selling it and not taking the overall offer.

Commissioner Lazarus asked if staff has made any decisions where to get the rating. Ms. Moyer replied that she would like to use the agencies used in the past: Moody's, Standard & Poors and Fitch. They each do an admirable job and she hopes to piggyback on their contract with the City and get a volume discount. Obviously, the Port does not have enough volume to get a discount but the City usually gets enough to get three for the price of two. The rating reports will help sell the bonds and it's worth the cost.
Commissioner Lazarus asked, in the best of circumstances, when staff hopes to go to

market. Ms. Moyer replied that the bonds are allowed to be refinanced in July. However, interest rates are rising and the sooner it is done, the better it will be for the Port and that may change her opinion about which rating agency to use because it might become a timing issue.

Calvin Grigsby gave the Commission a copy of HRC's memo showing how the firms were ranked after the written presentation. He indicated that the criteria for the oral and written presentations are the same as noted on the staff report. Mr. Grigsby stated that Ms. Moyer mentioned that Port staff was negotiating at $6 per $1000 bond; their price came in at $2.75 per $1000 bond, which is substantially lower than the threshold price. With regard to the written presentations, the top four firms interviewed had very tight numerical rankings. After the oral interviews, one firm was downgraded by about 40% from their initial ranking. The other three firms were upgraded by as much as 30%. Even though there was a tight spread in the written presentation materials, the oral presentations, even though it included the same exact criteria, was about an 80% spread in terms of how the panel changed their view of the firms. He suggested that someone should look into the process. One could say their firm had an off day that they were just not awake in their verbal presentation and their verbal presentation stunk. As a result, they had a significant downgrade. A firm has to say something idiotic to get a spread of 80%. They would have to say something like "we don't want to do credit enhancement on the bonds; we want to sell the bonds on an unrated basis even though with credit enhancement, we're right at 3% of the principal of the bonds, which is the threshold for doing the deal. So you were to do it on an unrated basis, you wouldn't even meet the Port's threshold for doing the bonds." If they had said something like that, he could see the significance in the downgrade. They're at a loss to understand not why they lost the deal because they think they had both the highest ranked written proposal and they think they had the lowest price. The only thing different was what happened on the verbal interview. The presentation made to the panel was worth 40 points. To give a firm half a point and another firm get all the points is a major discrepancy which means that the firm who got half the points must have said something that made no sense at all. If the firm who said something that made no sense got all the points on the same issue in their written presentation, you have to ask yourself not necessarily whether the presenter had a bad day but if the interviewer had a bad day.

Ms. Moyer clarified that Port staff has yet to negotiate the price. Port staff has yet to know exactly what each of the bidders have bid in terms of price. The $6.00 per $1000 bond price that is included in the resolution is simply a cap for purposes of the Commission's approval. It is not reflective of the individual bids.

Commissioner Bierman asked if that meant the Port has not picked the firm. Ms. Moyer replied that the selection is before the Commission because of the dollar amount contract. Port staff will negotiate with the firms as to what their commissions would be to sell the bonds. They probably are not going to negotiate on the price until they know all of the disclosures they need to know about the credit and the rating. That's a process that will take place over time. What's to be negotiated on the sales day is the sales commission to the brokers for selling the bond and the interest rates at which they are sold. The interest rates have a more price sensitive than the sales commission. Nonetheless, it is an open negotiation. She clarified that in the written presentation, there were 400 total points; Mr.

Grigsby's firm received 318 before adding the bonus; that placed him 6 out of 12. While the bonus points brought him first out of 12; he was actually six based on the evaluation of the written proposals.

Commissioner Hardeman indicated that he was fortunate to sit on the panel for the new courthouse at Polk and McAllister, he saw swings that were very odd too but those things happen. People look at things differently. Everyone has different perspectives.

Commissioner Brandon indicated that she was confused about the pricing aspect of the deal. She was confused on why it's even part of the whole process if it still has to be negotiated and it will depend on the market and other variables. Ms. Moyer replied that the prices are quoted on a per bond basis. The bond is defined as per $1000. When she got into the business many years ago, the average cost was between $15 and $20 a bond. In recent years, costs have gone down as low as $2.25, $2.50, etc. In her own personal view, the reason we asked for prices from the market as part of the written presentation, which is the gospel set out by HRC, is because there's always a distrust that staff knows where the market is unless we're given the bookends by the market. Those prices are available to us to know what the market thinks our credit is worth but it was not a price based bid. The key thing that the interview panel was looking for in the oral interview was the bidder's ability to think on their feet and articulate the Port's credit. They need to be able to think on their feet in the event that they are in the rating agency meetings with staff as they field questions from potential investors and to know the Port's credit inside and out. That was the distinguishing factor for the panelist.

ACTION: Commissioner Brandon moved approval; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor; Resolution No. 04-49 was adopted.

## 6. PLANNING & DEVELOPMENT

A. Request for approval to extend the date for the Port Commission to endorse the terms of the Revised Development Memorandum for the Piers 27-31 Mixed Use Recreation Project. (Site Location: The Embarcadero, between Bay and Battery Streets) (Resolution No. 04-50)

Kirk Bennett, Manager of Waterfront Development Projects, indicated that last January, the Commission approved the second amendment to the Exclusive Right to Negotiate (ERN) with Mills Corporation extending the ERN to January 18, 2005. The second amendment also provided for performance benchmarks that by April 13, 2004, the Port Commission had to adopt a revised Development Memorandum including the preferred alternative project and the revised financial terms. On May 13, the Commission extended the deadline to June 8, 2004. Since the April extension, Port staff has met with Mills several times. Port staff and Mills have also met with the Citizens to Save the Waterfront group. SPUR sponsored a site visit this last weekend. Out of these discussions, Mills has proposed further changes to the project and the financial terms. Since the Commission received the memorandum regarding this agenda item, Mills has submitted to the Port a revised preferred alternative project and a revised financial proposal. However, before Port staff can commit to these submittals, the revised preferred alternative needs to be

reviewed by Port staff, its consultant team led by Bay Area Economics, community groups and interested regulatory agencies. The revised financial proposal also needs to be analyzed by Port staff and by BAE. Port staff is therefore recommending that the performance benchmarks be extended by four months, until October 12, 2004, with the following conditions:

1. By August 16, 2004, Mills must submit its final revised alternative project to Port staff. Prior to submitting this final project to Port staff, reviews will first be conducted by the following: Port staff and its BAE led consultant team, the State Lands Commission staff, the Waterfront Design Advisory Group and BCDC's Design Review Board which would be asked to jointly review the revised project and by the Port's Northeast Waterfront Advisory Group (NEWAG) and the Fisherman's Wharf Waterfront Advisory Group. It is noteworthy that a representative of the SF Planning Department's Major Environmental Assessment Group has agreed to discuss parking and traffic issues with the NEWAG. This discussion addressed in a very important community issue should occur before the design is brought to the Commission and before the issuance of the preliminary draft EIR.

2. By September 17, 2004, Mills must submit a revised and complete proposal of the financial terms with detailed pro-formas for consideration by Port staff and BAE. Port staff expects that there will be a series of negotiations leading up to this final financial proposal.

3. Mills must provide an additional $100,000 of reimbursable funds to support the Port's extended review of the project. This additional $100,000 is in addition to the $230,00 already paid by Mills of which $130,000 has already been encumbered. These additional funds will cover the following:

    - Embarcadero Transportation Study - $20,000. These funds combined with those of other development projects on Port property will fund an Embarcadero Transportation Study to be defined by the Port's Planning group regarding parking and traffic management issues which go beyond some of the issues covered which were normally covered in an EIR.
    - The Historic Tax Credit Application - $50,000. This will reimburse Port staff to work order the services of a historic preservation staff member from the San Francisco Planning Department for FY 2004/05 and 2005/06.
    - Real Estate and other consulting services - $30,000. This will cover the additional cost of the Port's consulting team which in addition to BAE will include urban designers, engineers, architects and other consultants as needed.

Since the agenda package was sent out last week, a couple of amendments were made to the report: (1) Mills has requested that its payment for these additional services be made as cost incurred rather than up front; at the beginning of the extension period. Port staff supports this request provided that Port staff and Mills mutually agree upon a schedule for these payments by June 16, 2004. (2) The Port may determine that in order to expedite the Embarcadero Transportation Study, it might be appropriate for Mills to directly contract with a transportation consultant selected by the Port. This alternative approach would be

at the option of the Port. The exact wording of these amendments are indicated in the annotated replacement pages to the agenda package, specifically on pages 11 and 17 on the revised package dated June 8, 2004. With these minor amendments, Mr. Bennett recommended that the Commission approve Resolution 04-50 extending the date for the Port Commission to endorse the terms of the revised Development Agreement for the Piers 27-31 project subject to the outlined conditions.

Mr. Steve Jacobsen, Executive Vice President of Mills, welcomed Commissioner Lazarus and Monique Moyer. He indicated that they appreciate the willingness of the Port director and staff in granting them this extension. He feels that they have made a tremendous amount of progress over the last 30-45 days. They understood that it was important for them to reach out to the Citizens to Save the Waterfront. They had a very productive meeting last week. There were some ground rules established which are the basis for them to try to reach as much concession as they can in the next 120 days. He gave the Commission his commitment that they will continue to do so. That meeting made great progress. It was a very civil and professional meeting. He complimented the other side for coming to the table. The things that they heard that was very pressing to everybody were parking and traffic. They have made huge progress with that. They had signed an agreement with City Car Share so there are seven car spaces. By all measures, that's a pretty significant number of cars as it relates to City car share. Their original plan was 212 parking spaces on site. The concern of everybody was where to park since there's a tremendous amount of development going on. They worked long and hard on the plan. They increased the 212 spaces to over 600 spaces on site plus an additional 114 that they hope to finish their negotiations with Hornblower. It will give them over 700 spaces. With the revised traffic report which obviously have to be vetted through all the proper agencies and other groups, with the new multipliers and the new issues added to that report, he believes that they will have "self-park." They believe that would be the first property that actually self-parks. Other groups have not had an opportunity to fully review the plan. They have also reached out to both Muni and Market Street Rail. The traffic report that came back suggested that 1.3 historic electric cars would be required to sufficiently satisfy the demand. Prior to that, they committed to provide seed money ($1.3 million) for up to four electric cars and still stand by that commitment. They have identified four specific cars: (1) from the Sister City Osaka; (2) a training car; (3) a big box car because it carries a lot of people; (4) from Mexico City. These cars were selected on the basis of how quickly they could be put in operation and how quickly they can be funded with federal funds. They have committed almost three times the amount of cars that the traffic report today suggest and stand by that commitment. Most importantly, they were able to hire someone from the traffic team that understood San Francisco traffic and the special issues that relate to San Francisco. Bob Harrison has joined their team. He was the guru, the mastermind as part of the team that help solved many of the issues with SBC Park. He feels that by his addition to the team, they've already seen new insights. Not that the teams they had weren't qualified but obviously his insights added a different perspective to the traffic and the parking that was reflective in the traffic study that just released. Citizens to Save the Waterfront have some issues and they welcome to walk the beat to understand their issues.

Mr. Jacobsen indicated that another major impact is they reduced office space from

200,000 s.f. to 140,000 s.f. It reduced 60,000 s.f. of uses that would generate the most traffic during a peak period. It also provided the ability to add visitor serving parking within the project. It also provided additional revenue. They also took 11,000 s.f. of recreational retail out of the project and added additional 11,000 s.f. of indoor recreation. They are roughly about 178,000 s.f. of recreational retail and restaurant which is now on a square foot basis, which is less than Pier 39 not including the office space. With the addition and change that they have in the plan between indoor and outdoor recreation, they are well over 50%. Obviously, there is a difference in opinion of how much the outdoor should be included in the calculation. He stands firm by his argument that the water basin should be counted as outdoor recreation. They are spending over $10 million to create an area that people can get into the water and learn in a very safe environment. They are going to maintain it for 66 years. They are providing everything floating docks to the program. Others think that should not be included. He thinks that $10 million being spent for a 4-acre area should be considered as part of the recreational calculation. They have had 60 community meetings over the last three years and will continue to do so. They are committed to do this project. Mills would not have been here this long if the interest was not there, both from a personal and corporate level. He truly believes that this is the right project for San Francisco. This project will open up the waterfront and over half is open for public space. It will be affordable for everybody in San Francisco from all walks of social and economic backgrounds to enjoy the waterfront. They are not charging YMCA any rent to allow them to provide affordable recreation. Not only are they not charging them rent but also guarantee that they will open with them and guarantee any shortfall in their $30 million fundraising campaign. He cannot impose a prepayment program that in any way affect their ability to provide affordable recreation. The same goes with America True. They will continue to work with Port staff and they will do everything they can to make the project a reality. From a personal note, he thinks that people tend to get caught up in the letter writing campaign. They have agreed that is not the best use of their time. They will focus their energy on getting together a financial program as well as a package that has the input of everyone. They will do their best to satisfy as many as they can while at the same time, satisfy their stockholders because at the end of the day, they have to produce a project that is economically feasible. They will have to provide affordable recreation and guarantee it for 66 years. That is his promise to the Port Commission. The Commission has their commitment to do the best they can. They provided a revised financial program. By no stretch he believes that we're there yet. When you evaluate, you put in the scale what you all need but you weigh the public benefits. How do you put a number on the fact that you're opening up this waterfront to people that never had access to it. How do you put a number on the fact that there is affordable recreation. He does not know what that number is. He hopes to find out in the next 120 days and Director Moyer has committed that she will work with them. He hopes that they can come up with a resolution that is equitable for the Port, for Mills and people of San Francisco.

Ms. Moyer reminded the Commission that the item before the Commission is the ability to extend the Exclusive Right to Negotiate. The Project Alternative that Mr. Jacobsen mentioned has just been delivered to Port staff on Friday. In listening to his testimony, he implied that staff has agreed to it when in fact, staff has not.. The intent today is not to discuss and/or debate what the vision of the project is but simply to provide the time to do

that and the appropriate processes.

Commissioner Lazarus asked for clarification about the money committed to the project. $100,000 was previously committed and now an additional $100,000; for a total of $200,000 that would be coming to the Port. Mr. Bennett replied that they originally committed $230,000 of which $130,000 have already been encumbered. With this additional $100,000, there will be a total of $200,000 coming to the Port.

Robert Harrison indicated that he is happy to be part of this process because this is another project that can be worked out from a traffic and parking standpoint. He joined the team within the last couple of months. The project has changed radically. The plan that is before the Commission and has not yet been agreed to, is a much different project. Because of that, parking and traffic are a whole different animal than they were a few months ago. To put it in perspective, when they worked on the ballpark, they are looking at a project that happens 80 times a year. When it happens, it's a very big project. As complicated as the Mills project is, it's much less than a traffic and parking issue. On a peak hour basis, it's about 10%. In other words, the ballpark has about ten times more people coming and going in the peak hour than they estimate that Mills, as currently being proposed, would have. This is complicated, difficult project but it is nothing in contrast with the other project. It's only a one tenth factor. This project won't use more than 500. They have already found 600 on site. They are negotiating another 100 next door. It's' quite possible that there will be more parking than needed. The scale of things is so different. He was optimistic that this will work since Mills is committed to doing it.

Jared Eigerman, land use attorney for Mills, differentiated between Bob Harrison, who is their transportation planner and the City's transportation planners. The draft study that came out on May 28, which is available to the public, is in the files of the Planning Department. That is a public record. It was not prepared by Mr. Harrison. His opinions on parking are different. The City is more conservative. The City's study may find that 600 spaces are needed but their expert is too conservative. His experience based on the ballpark, 500 would do but it's the City that controls the EIR. In response to Director Moyer's comments, they did not mean to imply that anyone had agreed to the project description. It's simply their latest proposal. The difference is really stark. A year ago when they came back from State Lands Commission, they had about 171,000 s.f. of retail plus another 51,000 s.f. of restaurant plus 200,000 s.f. of office. Today, on their own, the Port has not yet agreed, they are down to 140,000 office, 128,000 retail and 50,000 restaurant.

Al Norman, Martie Bolsinger, Dawn Riley, Rod Henmi, Spencer Tolliver, Peter Chong, Rick Laubscher, John Spratley, declined to speak on the item at this time.

Alan Olson, representing the Call of the Sea a nonprofit organization dedicated to bringing a full-time tall ship sailing program to San Francisco, indicated that this program will serve the youth of San Francisco and the Bay Area. They see the piers project as an ideal location for San Francisco's own operating tall ship. The proposed mix of maritime and other recreational activities will give the critical mass needed to make this site not just a tourist site but truly a community site, a place where people are naturally drawn to the

water and all that it offers. They understand that there are many concerns and issues that are still to be resolved. However, the potential value for the public access and public trust is worth the effort. He urged the Commission and all interested parties to resolve their differences and give back to the community this vital part of the waterfront.

Ernestine Weiss was happy to see that the office space has been reduced. If the office space has been reduced, parking should also be reduced. This is a transit-first City. She'd like to see less parking. The traffic study should have taken place a long time ago, at the outset of the development. The parking study is key to everything, not only to this development but also to the whole Embarcadero. She suggested reducing the 700 parking spaces. The seven car shares are excellent. She would like to see new drawings showing the office space, the parking spaces, etc.

Mel Washington, Black Chamber of Commerce, welcomed the new director and new Commissioner. He supports the extension of time for this project.

Lavonne Barnes, new Executive Director of the Boys and Girls Club at Hunter's Point, supports the extension of time for this project. She was particularly excited about the recreation aspect of this project. As Ms. Moyer pointed out, the Port of San Francisco is not a household word and it's not a household word for the children at Hunter's Point.

ACTION: Commissioner Brandon moved approval; Commissioner Bierman seconded the motion. All of the Commissioners were in favor; Resolution No. 04-50 was adopted.

## 7. NEW BUSINESS / AGENDA SETTING

Ms. Moyer indicated that this portion of the agenda was added at the last meeting. She failed to announce that it's intended to be a draft of what's to come. With respect to what's on the agenda, the Historic District Nomination date is firm. The refinancing of the bonds should be ready soon or we run the risk of interest rate rising even more. Everything else is sort of a moving target so there is no ill will if the dates are moved around. The intention of this part of the agenda is to inform the public about upcoming items or topics while at the same time still run the Port as best we can.

Commissioner Hardeman indicated that the Commission appreciates the agenda setting part of the agenda. It helps the Commission to set their schedule.

- New Business

- Agenda Setting (Targeted Commission meeting, subject to change)

  (1) Nexus Study (June 22)
  (2) Historic District Nomination (June 22)
  (3) Approval of Refinancing of Series 1994 Port Revenue Bonds (June 22)
  (4) Interim Leasing Guidelines (July 13)

## 8. PUBLIC COMMENT

Ernestine Weiss asked if patrolling of Pier 7 falls under the homeland security of the Port. Will security people be available to patrol the area? She called the San Francisco Police Department but with all that is happening in the City, they cannot send one to this area. She asked the Commission's cooperation to put cops in the financial and waterfront section of the City.

Commissioner Hardeman commented that Maritime staff should be elated with the Pride of Aloha. He and Commissioner Lazarus had a chance to go on board the ship yesterday. They are excited and proud to have an American flagship participating in the business. Maritime staff should be proud.

**9. EXECUTIVE SESSION**

A. Vote on whether to hold closed session to confer with Legal Counsel and Real Property Negotiator.

ACTION: Commissioner Brandon moved approval; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor.

At 5:10 p.m., the Commission withdrew to executive session to discuss the following:

B. CLOSED SESSION

(1) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – This is specifically authorized under California Government Code Section 54956.8.
***This session is closed to any non-City/Port representative. ****

a. Property: SWL 318 at 1500 Sansome Street
Person Negotiating: Port: Ken Winters, Director of Real Estate
*Roundhouse: Activspace - Gary Romain

b. Property: SWL 356 at Cesar Chavez and 25th Street
Person Negotiating: Port: Ken Winters, Director of Real Estate
*Affordable Self-Storage: Chris Kasaris

c. Property: Francisco Bay Office Park (Seawall Lots 315, 316 and 317) at Embarcadero and Francisco Street
Person Negotiating: Port: Byron Rhett, Director of Planning & Development
*Exploratorium: Dr. Goéry Delacôte

**10. RECONVENE IN OPEN SESSION**

At 6:14 p.m., the Commission withdrew from executive session and reconvened in open session.

ACTION: Commissioner Brandon moved approval to adjourn executive session and reconvene in open session; Commissioner Lazarus seconded the motion. All of the Commissioners were

in favor.

ACTION: Commissioner Brandon moved approval to not disclose any information discussed in executive session; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor.

## 11. ADJOURNMENT

ACTION: Commissioner Brandon moved approval to adjourn the meeting; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor.

Commission Vice President Michael Hardeman adjourned the meeting at 6:15 p.m.

# SAN FRANCISCO PORT COMMISSION

**Wilfred Hsu, President**
**Michael Hardeman, Vice President**
**Kimberly Brandon, Commissioner**
**Sue Bierman, Commissioner**
**Ann Lazarus, Commissioner**

**Monique Moyer, Executive Director**
**Phone: 415-274-0400; Fax: 415-274-0412**

**Amy Quesada, Commission Secretary**
**Phone: 415-274-0406; Fax: 415-274-0412**

DOCUMENTS DEPT.

JUN 18 2004

SAN FRANCISCO
PUBLIC LIBRARY

## AGENDA

**REGULAR MEETING**
**3:00 P.M., TUESDAY, JUNE 22, 2004**
**PORT COMMISSION HEARING ROOM, 2ND FLOOR**
**FERRY BUILDING, SAN FRANCISCO, CA 94111**

***The Port Commission Agenda as well as Staff Reports/Explanatory Documents available to the public and provided to the Commission are posted on the Port's Website at www.sfport.com.***

**1. CALL TO ORDER / ROLL CALL**

**2. APPROVAL OF MINUTES** - June 8, 2004 Meeting

**3. EXECUTIVE**

A. Executive Director's Report
- City Budget Process
- Status of the proposed Port of San Francisco Embarcadero National Register Historic District

**4. CONSENT**

A. Request for approval of a five-year lease with Delancey Street Foundation, Inc. for space located at Seawall Lot 349, Building 117 on Michigan Street between 20th Street and 21st Street. (Resolution No. 04- 51)

**5. REAL ESTATE**

A. Request to authorize staff to reject the sole proposal submitted pursuant to Request for Proposals (RFP) for the Lease of the Roundhouse One Building located at the Embarcadero and 1500 Sansome Street. (Resolution No. 04-52)

B. Request for approval of Memorandum of Understanding between the Entertainment Commission and the Port regarding issuance of entertainment permits on Port property. (Resolution No. 04-53)

## 6. ENGINEERING & MAINTENANCE

A. Request for authorization to issue a Request for Proposals for education and public participation programs at Heron's Head Park. (Resolution No. 04-54)

B. Request for authorization to amend Contract No. 3048-03/04 with Literacy for Environmental Justice to provide education and public participation programs at Heron's Head Park. (Resolution No. 04-55)

## 7. ADMINISTRATIVE SERVICES

A. Request for approval to accept the Port of San Francisco Nexus Study report prepared by Bay Area Economics. (Resolution No. 04-56)

B. Request for authorization to expend $1 million in Port funds appropriated in Fiscal Year 2003/04 to reimburse the General Fund for City Services received in Fiscal Years 2000/01, 2001/02, 2002/03 and 2003/04. (Resolution No. 04-57)

## 8. NEW BUSINESS / AGENDA SETTING

- New Business

- Agenda Setting (Targeted Commission meeting, subject to change)

  (1) Interim Leasing Guidelines (July 13)
  (2) Refinancing of Series 1994 Port Revenue Bonds (July 13)
  (3) Policy for Disposal of Surplus Property (to be determined)

## 9. PUBLIC COMMENT

Public comment is permitted on any matter within Port jurisdiction and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. A member of the public has up to three minutes to make pertinent public comments before action is taken on any agenda item and during the new business/public comment period. It is strongly recommended that public comments be submitted in writing so they can be distributed to the Commissioners for their review. Please fill out a speaker card and hand it to the Commission Secretary. If you have any question regarding the agenda, please contact the Commission Secretary at 274-0406.

## 10. EXECUTIVE SESSION

A. Vote on whether to hold closed session to confer with Legal Counsel and Real Property Negotiator.

B. CLOSED SESSION

(1) CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING AND ANTICIPATED LITIGATION MATTERS (Discussion Items)

a. Discuss existing and anticipated litigation matters pursuant to Section (a) of California Government Code Section 54956.9 and San Francisco Administrative Code Section 67.10(d) (2 cases):

- In re Pacific Gas and Electric Company, Debtor, United States Bankruptcy Court, Northern District of California, San Francisco; Case No. 01-30923.

- F. Alioto Company, Inc. et al. v. City & County of San Francisco, et al., Superior Court Petition CPF 03-503016.

(2) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – This is specifically authorized under California Government Code Section 54956.8.
***This session is closed to any non-City/Port representative. ****

a. Property: Pier 80
Person Negotiating: Port: Peter Dailey, Director of Maritime
*Marine Terminal Corporation: Ken Passe

Under Negotiation: _____ Price _____ Terms of Payment __X__ Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at Pier 80.

(3) PUBLIC EMPLOYEE APPOINTMENT/DISMISSAL/RESIGNATION – This is specifically authorized under California Government Code Section 54957.

- Consideration and Possible Action on Public Employee's Appointment/ Dismissal/Resignation – Deputy Director of Port (No. of Employees Affected 4).

**11. RECONVENE IN OPEN SESSION**

A. Possible report on actions taken in closed session pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.

B. Vote in open session on whether to disclose any or all executive session discussions pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.

**12. ADJOURNMENT**

## JUNE/JULY 2004
## CALENDAR OF UPCOMING PORT MEETINGS - OPEN TO THE PUBLIC

| Date | Time | Group | Location |
|---|---|---|---|
| **June 22** | **3:00 p.m.** | **Port Commission** | **Port Commission Room @ Ferry Building** |
| **July 13** | **3:00 p.m.** | **Port Commission** | **Port Commission Room @ Ferry Building** |
| **July 27** | **3:00 p.m.** | **Port Commission** | **Port Commission Room @ Ferry Building** |

**NOTES:**

The San Francisco Port Commission meets regularly on the 2nd and 4th Tuesday of the month at 3:00 p.m., unless otherwise noticed. ***The Commission Agenda and staff reports are posted on the Port's Website @ www.sfport.com.*** Contact Amy Quesada at 274-0406.

The Brannan Street Wharf Citizens Advisory Committee meets on an as-needed basis to develop a concept plan for this planned open space in the South Beach area. Meetings are held in the Bayside Conference Room at Pier 1. Contact Dan Hodapp @ 274-0625 or dan_hodapp@sfport.com

The Cruise Terminal Environmental Advisory Committee generally meets the third week of each month. Date and time to be determined. Contact Michael Nerney at 274-0416.

The Environmental Quality Advisory Committee (EQAC) meets regularly on the fourth Thursday of the month at 9:00 a.m. at Scoma's Restaurant, Pier 47 @ Fisherman's Wharf. Contact Jay Ach @ 274-0562.

The Fisherman's Wharf Waterfront Advisory Group meets regularly on the 3rd Tuesday of the month. The regular meeting time and place is 9:00 a.m. at Scoma's Restaurant, Pier 47 at Fisherman's Wharf. Contact Kirk Bennett @ 274-0545.

The Maritime Commerce Advisory Committee (MCAC) meets on a bi-monthly basis, on the third Thursday of the month, from 11:30 a.m. to 1:30 p.m. @ Pier 1. Contact Jill Rodby @ 274-0519.

The Mission Bay CAC meets regularly on the 2nd Thursday of the month, from 5:30 to 7:30 p.m. at the Mission Bay Visitor Center (255 Channel Street). Contact Tiffany Bohee at 749-2481 for more information.

The Northeast Waterfront Advisory Group meets regularly on the 1st Wednesday of the month at 4:00 p.m. in the Bayside Conference Room @ Pier 1. Contact Kirk Bennett @ 274-0545.

The Pier 70 Advisory Group meets monthly on an as-needed basis generally on the 2nd Wednesday of the month from 4 to 6 p.m. at the Potrero Campus of the California College of Arts and Crafts, Board Room, 1111 – 8th Street between Irvin and Hooper. Contact Mark Paez @ 705-8674.

The Rincon Point-South Beach CAC meets regularly on the 3rd Monday of the month, from 5:00-7:00 p.m. at the South Beach Yacht Club (Pier 40 on The Embarcadero). Contact Tiffany Bohee at 749-2481 or 749-2400 for more information.

The Southern Waterfront Advisory Committee (SWAC) meets every 1st Wednesday of the month from 6:15 to 8:15 p.m. Location to be determined. Contact David Beaupre @ 274-0539 or david_beaupre@sfport.com.

The Waterfront Design Advisory Committee meets the 3rd Tuesday of the month from 11 a.m. to 1 p.m. in the Bayside Conference Room @ Pier 1. Contact Dan Hodapp @ 274-0625.

## ACCESSIBLE MEETING INFORMATION

**Ferry Building:** The Port Commission Hearing Room is located on the second floor of the Ferry Building. The main public entrance is from the west (Embarcadero) side and is served by a bank of elevators adjacent to the historic staircase. Accessible public restrooms are on the first floor at the northeast end of the building as well as on the second floor across the lobby from the Port Commission Hearing Room. The main path of travel to the Port Commission Hearing Room is equipped with remote infrared signage (Talking Signs). The Port Commission Hearing Room is wheelchair accessible. Accessible seating for persons with disabilities (including those using wheelchairs) is available. The closest accessible BART and MUNI Metro station is Embarcadero located at Market & Spear Streets. Accessible MUNI lines serving the Ferry Building area are the F-Line, 9, 31, 32 and 71. For more information about MUNI accessible services, call (415) 923-6142.

The nearest accessible parking is provided in the following off-street pay lots:

A) 3 spaces in the surface lot on the west side of the Embarcadero at Washington St.
B) 3 spaces in the Pier 1/2 lot, located on the east side of the Embarcadero between the Ferry Building and Pier 1. During business hours this lot is operated by valets
C) Hourly and valet parking in the Pier 3 lot. This lot is accessed through the Pier 3 bulkhead building entrance on the east side of the Embarcadero. This lot is located on the pier deck; adjacent to the ferry boat Santa Rosa.

Additional covered accessible off-street pay parking is available in the Golden Gateway Garage, which is bounded by Washington, Clay, Drumm and Battery Streets. Entrance is on Clay St. between Battery and Front Streets. There is no high-top van parking. Metered street parking is available on the Embarcadero, Washington St., Folsom St. and Drumm St.

**Pier 1:**
The Port's fully accessible offices are in the west end of Pier 1. There are two public entrances; the main entrance on the west (Embarcadero), and the Port History walk entrance on the south apron. Each of these entrances is provided with an automatically operated door. Both entrances lead to the Bayside conference rooms. Accessible public restrooms, drinking fountains, payphone and TTY are on the first floor near the main entrance. The public spaces of the Port's offices are equipped with remote infrared signage (Talking Signs) identifying all primary entrances, paths of travel, meeting rooms and amenities. Accessible seating areas and assistive listening devices will be available in the Bayside Conference rooms.

**Accessible meeting information policy:**
In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals. A sign language interpreter and alternative format copies of meeting agendas and other materials can be provided upon request made at least 72 hours in advance of any scheduled meeting. Contact John Scott, Port's ADA Coordinator, at 274-0571. The Port's TTY number is (415) 274-0587.

**Know Your Rights Under the Sunshine Ordinance**. Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact Donna Hall by mail: Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102, by phone at (415) 554-7724, by fax at (415) 554-7854 or by email at Donna.Hall@sfgov.org. Citizens may obtain a free copy of the Sunshine Ordinance by contacting Ms. Hall or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, at http://www.sfgov.org/sunshine.htm

**Lobbyist Registration and Reporting Requirements.** Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Government Conduct Code §2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness, Suite 3900, San Francisco, CA 94102, phone (415) 581-2300 or fax (415) 581-2317; web site: www.sfgov.org/ethics.

PORT OF SAN FRANCISCO

**MEMORANDUM**

June 17 2004

**TO:** MEMBERS, PORT COMMISSION
Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Sue Bierman, Commissioner
Hon. Kimberly Brandon, Commissioner
Hon. Ann Lazarus, Commissioner

**FROM:** Monique Moyer
Executive Director

**SUBJECT:** Approval of a five-year lease with Delancey Street Foundation, Inc. for space at Seawall Lot 349, Building 117, on Michigan Street, between 20th Street and 21st Street.

**DIRECTOR'S RECOMMENDATION:** APPROVE FIVE-YEAR LEASE WITH DELANCEY STREET FOUNDATION, INC. FOR SPACE AT SEAWALL LOT 349, BUILDING 117, ON MICHIGAN STREET, BETWEEN 20TH STREET AND 21ST STREET.

---

**BACKGROUND**

The Delancey Street Foundation, Inc. ("Delancey") currently operates a moving and storage operation at Pier 36 under Port Lease No. L-11866. The original term of the lease was for five years, however Delancey is now on a month to month holdover status.

Pursuant to the Port's Structural Facility Condition Survey Policy, a Rapid Structural Assessment of Pier 36 was performed by the Port's Structural Engineering Group. The inspection findings are contained in the Rapid Structural Assessment Report dated March 25, 2004. The Report cited several portions of Pier 36 to be unsafe and not capable of sustaining live loads associated with the current use.

The Acting Chief Harbor Engineer has made the determination under recommendation of the Structural Engineering Group to discontinue the use of Pier 36 and commence the process of vacating the Pier. On June 3, 2004, the Port sent Delancey a 30-day notification to vacate the premises.

THIS PRINT COVERS CALENDAR ITEM NO. **4A**

Port staff and Delancey have located an acceptable relocation site and negotiated a lease for space located at Seawall Lot 349, Building 117, on Michigan Street, between 20th Street and 21st Street.

**PROPOSED LEASE**

The following is an outline of basic terms and conditions to be included in the Lease with Delancey for premises located at Seawall Lot 349, Building 117, on Michigan Street, between 20th Street and 21st Street.

1. **Premises:** Approximately 31,440 sq. ft. of shed space and an estimated 40,000 sq. ft. of paved land. Square footage for the paved land is subject to a final measurement upon reconfiguration of the space.

2. **Use:** Storage of moving equipment, materials, parking and light maintenance (washing) of moving trucks.

3. **Term:** Five (5) years.

4. **Rent**:

   Base Rent: Rental Rate of $.10 per sq. ft. per month for shed space and paved land, with annual cost of living increases.

   Total Base Rent: $7,144.00 per month. $85,728.00 annually.

   Base rent will be adjusted to reflect final measurement of paved land, as stated above.

5. **Rent Abatement: Port** shall abate rent for the last 30 days of Delancey's tenancy at Pier 36 under Lease No. L-11866, beginning June 3, 2004.

**RECOMMENDATION**

Port staff recommends that Commission approve the attached resolution authorizing the Executive Director and Port staff to take any and all steps they deem necessary or appropriate, in consultation with the City Attorney, in order to consummate the approval of a five-year lease with Delancey in accordance with this resolution.

Prepared by: Mark Lozovoy,
Assistant Deputy Director, Real Estate

**PORT COMMISSION**
**CITY AND COUNTY OF SAN FRANCISCO**

**RESOLUTION NO. 04-51**

WHEREAS, Charter Section 3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control Port area of the City and County of San Francisco; and

WHEREAS, Delancey Street Foundation, Inc. ("Delancey") is currently on a month to month holdover tenancy at Pier 36, under Port Lease No. L-11866; and

WHEREAS, the Port's Structural Engineering Group conducted a structural inspection of Pier 36; and

WHEREAS, pursuant to the inspection findings contained in the Port's Rapid Structural Assessment, dated March 25, 2004, portions of Pier 36 were found to be unsafe and not capable of sustaining live loads associated with the current use; and

WHEREAS, the Acting Chief Harbor Engineer has made the determination to discontinue the use of Pier 36 and to vacate Delancey from the premises; and

WHEREAS, the Port has sent Delancey a 30-day notification to vacate the premises dated June 3, 2004; and

WHEREAS, Port staff has located a relocation site and negotiated a five-year lease with Delancey for shed space and paved land located at Seawall lot 349, Building 117, on Michigan Street, between 20th Street and 21st Street; now, therefore, be it

RESOLVED, that the San Francisco Port Commission hereby approves a five-year lease No. L-13312 between the Port and Delancey for shed space and paved land located at Seawall Lot 349, Building 117, on Michigan Street, between 20th Street and 21st Street, in a form to be approved by the City Attorney's Office, which terms and conditions are set forth substantially and in preliminary form in the Memorandum of Agenda Item 4A for the June 22, 2004 Port Commission Meeting.

***I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of June 22, 2004.***

_____
Secretary

PORT OF SAN FRANCISCO

**MEMORANDUM**

June 16, 2004

**TO:** MEMBERS, PORT COMMISSION
Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Kimberly Brandon, Commissioner
Hon. Sue Bierman, Commissioner
Hon. Ann Lazarus, Commissioner

**FROM:** Monique Moyer
Executive Director

**SUBJECT:** Authorize Staff to Reject the Sole Proposal Submitted Pursuant to Request for Proposals (RFP) for the Lease of the Roundhouse One Building Located at the Embarcadero and 1500 Sansome Street.

**DIRECTOR'S RECOMMENDATION:** APPROVE RESOLUTION REJECTING PROPOSAL

---

## I. HISTORY

The Port owns the Roundhouse One Building, located at 1500 Sansome Street on the Embarcadero. The Roundhouse One Building, constructed in 1913, is an approximately 20,000 square foot building listed on the National Register of Historic Places. The building was rehabilitated as an office building in the mid 1980s and is currently vacant.

In 1999, the Port issued a Request for Proposals (RFP) for a ten- (10) year lease of the Roundhouse One Building. The Port awarded a ten (10) year lease to IN Radio, LLC. IN Radio took possession in the spring of 2000 and commenced construction of a $3.5 million remodel of the Roundhouse One Building for use as a satellite radio broadcast studio. Due to changing economic conditions, the tenant defaulted under its lease. The Port terminated the lease with IN Radio in 2002.

On December 17, 2003, by Resolution No. 03-73, the Port Commission authorized staff to issue another Request for Proposals (the "RFP") to lease Roundhouse One. Responses to the

**This Print Covers Calendar Item No. 5A**

RFP were due on April 28, 2004. The Port undertook an extensive advertising campaign targeting twelve periodicals to promote the RFP's availability and describes the site's unique characteristics. Despite this effort, the Port received only one proposal.

## II. THE PROPOSAL

ActivSpace, LLC submitted the sole response to the RFP. Material terms of the ActivSpace proposal are as follows:

- Use: ActivSpace would develop a facility that provides sublet studio spaces for its customers, primarily artists, hobbyists, and small business owners.

- Base Rent Offer: $9.00 annually per gross square foot/$0.75 monthly. This rate would include the Port providing electrical and janitorial services.

- Rent Escalation: Annual CPI with a 1.5% minimum and a 5% maximum.

- Rent Commencement: At issuance of occupancy permits.

- Lease term: 40 years.

- Lease extensions: Two Ten year options.

- Tenant Improvement Allowance: $15 per square foot or $300,000 to be provided by Port.

## III. RFP EVALUATION CRITERIA AND PROCESS.

### A. Evaluation Process and Criteria.

A team comprised of Jeffrey A. Bauer, Senior Leasing Manager; Phil Williamson, Senior Property Manager; Carol Anderson, Assistant Deputy Director of Real Estate; Mark Lozovoy, Assistant Deputy Director of Real Estate; and Ken Winters, Deputy Director of Real Estate, evaluated the ActivSpace RFP with the guidance of the evaluation criteria set forth in Section X of the RFP. Among those criteria are the following:

- Economic return to the Port based on Base Rent and Percentage Rent proposed by Respondent.

- Quality, uniqueness, and potential for success and successful fit of the use concept based on the type and character of project proposed, targeted clientele, appeal to a diversity of users, [and] compatibility with the neighborhood's setting.

- Term of Lease based on minimum term required to support cost of proposed improvements and comparable situations in the market.

B. **Analysis**

Based on its review of the ActivSpace proposal, the selection team determined the following:

- Insufficient Economic Return to Port. Port staff estimates that Roundhouse One has a minimum valuation of between $1.50 and $2.00 per gross square foot for a lease in which the Port would provide services such as electrical and janitorial services at between $0.50 and $0.75 per square foot. The comparable Port facility is located at Roundhouse Two with average rates ranging from $2.00-$2.25 for a full service gross lease per square foot monthly. Assuming a fully service lease in which Port's expenses range from $0.50-$0.75 in addition to ActivSpace's request for tenant allowance improvement of $15 per square foot, ActivSpace's offer would equate to only $0.75 per square foot monthly. Based on the market rental value of Roundhouse One, the selection team found that the ActivSpace base rent proposal would provide a poor economic return to the Port. In addition, the proposal would provide no percentage rent to allow the Port to share in the potential success of the project.

- Questionable use in the area. While ActivSpace's business model has worked in other cities, their typical locations are industrial areas and/or neighborhoods in transition from industrial warehouse/manufacturing to commercial/residential uses. Based upon these factors, the selection team found that the proposed use program did not provide a good fit with the location of the building in a manner that would assure its success.

- Length of Lease Term. ActivSpace proposes a lease term of 40 years, with two 10-year options, for a total of 60 years. The selection team found that this length of term was not justified by the scope of required tenant improvements or by similar situations in the marketplace.

## V. RECOMMENDATION

Under Section XI of the RFP, the Port Commission expressly reserves the right at any time to ..."(b) [r]eject any or all proposals..., (c) suspend any and all aspects of the process indicated in this RFP..., [and] (f) [s]elect a tenant by any other means." Because the RFP generated only a single proposal, and because that proposal fared poorly against a number of the selection criteria as described in Section III.B above, Port staff recommends rejecting the Activspace proposal. Due to the poor response to the RFP after extensive outreach, Port staff also believes that reissuing the RFP is unlikely to result in additional responses, and is therefore impractical. Consequently, Port staff recommends that the RFP be rescinded, and that Port staff be directed to pursue potential tenants for the space through direct negotiations.

Prepared by: Jeffrey A. Bauer, Senior Leasing Manager
Phil Williamson, Senior Property Manager

**PORT COMMISSION**
**CITY AND COUNTY OF SAN FRANCISCO**

**RESOLUTION NO. 04-52**

WHEREAS, Charter Section B3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of the City and County of San Francisco; and

WHEREAS, the Port owns certain property known as the Roundhouse One Building; and

WHEREAS, Port Commission policy encourages competitive bidding of economic opportunities unless impractical or impossible; and

WHEREAS, the Port Commission, by Resolution No. 03-73, authorized Port staff to issue a request for proposals (the "RFP") for the lease of the Roundhouse One Building; and

WHEREAS, the Port received a single response to the RFP from ActivSpace, LLC; and

WHEREAS, the Port's selection team found that the proposal from ActivSpace fared poorly against a number of the RFP's evaluation criteria, as more particularly described in the memorandum to the Port Commission for Agenda Item 5A of the Port Commission Meeting on June 22, 2004; and

WHEREAS, Under Section XI of the RFP, the Port Commission expressly reserves the right at any time to ..."(b) [r]eject any or all proposals..., (c) suspend any and all aspects of the process indicated in this RFP..., [and] (f) [s]elect a tenant by any other means;" and

WHEREAS, based upon the single response to the RFP after extensive outreach, the Port Commission finds that issuing another RFP for Roundhouse One would be unlikely to yield an adequate further response, and that therefore, further bidding of the opportunity would be impractical; now, therefore, be it

RESOLVED, That the Port Commission hereby rejects the Activspace proposal, rescinds the RFP, and directs Port staff to pursue potential tenants for the space through direct negotiations.

***I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of June 22, 2004.***

_____
Secretary

PORT OF SAN FRANCISCO

**MEMORANDUM**

June 16, 2004

**TO:** MEMBERS, PORT COMMISSION
Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Kimberly Brandon, Commissioner
Hon. Sue Bierman, Commissioner
Hon. Ann Lazarus, Commissioner

**FROM:** Monique Moyer
Executive Director

**SUBJECT:** Resolution authorizing the Port Executive Director to execute a Memorandum of Understanding with the San Francisco Entertainment Commission to facilitate the effective transfer of the issuance of duties from the Port to the Entertainment Commission.

**DIRECTOR'S RECOMMENDATION:** APPROVE RESOLUTION

---

## I. HISTORY

In 2000 the Civil Grand Jury recommended that the City and County of San Francisco create a new commission to assume the issuance and administration of entertainment permits from the San Francisco Police Department (the "Police Department").

In fiscal 2003-2004, the Entertainment Commission became operative and was vested with the authority to assume all responsibilities from the Police Department for the issuance of entertainment related permits. (S.F. Charter Section 4.17, S.F. Administrative Code Chapter 90). Prior to the creation of the Entertainment Commission, the Police Department was responsible for the issuance of entertainment permits and licenses, including; loudspeaker permits, itinerant show permits, dance hall keeper permits and place of entertainment permits, after hours permits, licenses for amusements, amusement parks, mechanical amusement devices, billiard and pool tables, arcades and recreational equipment. The Police Department also conditioned, suspended, revoked and/or authorized the transfer of such permits and licenses as set forth in the Police Code.

**This Print Covers Calendar Item No. 5B**

The Entertainment Commission does not have jurisdiction over entertainment related permits on Port property. However, under Section 90.4(1) of the Administrative Code, the Port may delegate its authority to the Entertainment Commission to exercise its powers and perform its duties within the jurisdiction of the Port.

At present, the Port does not wish to assume the managerial responsibility associated with the administration of entertainment related permits on Port property. Thus, the Port has elected to delegate to the Entertainment Commission all aspects of the administration and issuance of entertainment related permits on Port property. The Port has drafted a Memorandum of Understanding (MOU) with the Entertainment Commission in order to facilitate the effective transfer of permitting duties from the Port to the Entertainment Commission.

Material terms of the MOU include the following:

- The term of the MOU is one year.
- The Entertainment Commission will accept all applications, perform all administrative tasks, and render decisions related to the issuance or denial, the suspension and/or revocation, and the transfer of entertainment related permits on Port property.
- The Entertainment Commission is required to solicit the Port's written comments and recommendation's for all permit activities on Port property, which must be given "all due consideration" by the Entertainment Commission. The Entertainment Commission's decision is final, unless appealed.
- Decisions concerning entertainment permits may be appealed to the Entertainment Commission or the Board of Appeals.
- The MOU contains a procedure for resolution of potential disputes between the Port and Entertainment Commission.
- The Entertainment Commission will not seek any reimbursement from the Port for costs incurred by the Entertainment Commission in the administration of permits on Port property.

## II. RECOMMENDATION

Port staff recommends Port Commission approval of the accompanying resolution which authorizes the Port Executive Director, or her designee, to execute a Memorandum of Understanding with the Entertainment Commission to facilitate the effective transfer of the issuance of permits duties from the Port to the Entertainment Commission.

Prepared by: Jeffrey A. Bauer, Senior Leasing Manager

**PORT COMMISSION**
**CITY AND COUNTY OF SAN FRANCISCO**

**RESOLUTION NO. 04-53**

**WHEREAS,** Section B3.581 of the Charter of the City and County of San Francisco empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of the City and County of San Francisco; and

**WHEREAS,** the Entertainment Commission was created by amendments to the Charter of the City and County of San Francisco in November 2002 (S.F. Charter § 4.117) and to the San Francisco Administrative Code (Chapter 90), to coordinate planning and permit issuance for cultural, entertainment, athletic and similar events and establishments throughout the City and County of San Francisco, and to assume all responsibility from the San Francisco Police Department for the issuance of "entertainment related permits"; and

**WHEREAS,** the effective date of the amendments creating the Entertainment Commission is July 1, 2004; and

**WHEREAS,** with the express approval of the Port, under Section 90.4(1) of the S.F. Administrative Code, the Entertainment Commission may exercise the powers and perform the duties set forth to the Entertainment Commission in Chapter 90 of the S.F. Administrative Code with respect to events and establishments to be held or operated upon property within the jurisdiction of the Port; and

**WHEREAS,** the Port gives its express approval to the Entertainment Commission to exercise the powers and perform the duties set forth in Chapter 90 of the S.F. Administrative Code with respect to events and establishments to be held or operated on property within the jurisdiction of the Port; and

**WHEREAS,** the Port wishes to execute a Memorandum of Understanding with the Entertainment Commission in order to facilitate the effective transfer of permitting duties from the Port to the Entertainment Commission; now, therefore, be it

**RESOLVED,** that the San Francisco Port Commission authorizes the Executive Director, or her designee, to enter into a Memorandum of Understanding by and between the Port of San Francisco and the Entertainment Commission to facilitate the effective transfer of permitting duties from the Port to the Entertainment Commission, substantially in the form on file with the Port Commission Secretary for this item, and in such final form as is approved by the City Attorney.

***I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of June 22, 2004.***

_____
Secretary

PORT OF SAN FRANCISCO

**MEMORANDUM**

June 16, 2004

**TO:** MEMBERS, PORT COMMISSION
Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Kimberly Brandon
Hon. Susan Bierman
Hon. Ann Lazarus

**FROM:** Monique Moyer
Executive Director

**SUBJECT:** Request for authorization to issue a Request for Proposals for education and public participation programs at Heron's Head Park.

**DIRECTOR'S RECOMMENDATION:** AUTHORIZE STAFF TO ISSUE A REQUEST FOR PROPOSALS TO PROVIDE EDUCATION AND PUBLIC PARTICIPATION PROGRAMS AT HERON'S HEAD PARK.

**Background**

Community participation has been an important part of Heron's Head Park since its inception, and is a major contributor to the health and vitality of the park. Heron's Head Park offers a unique opportunity for local schools and other visitors to study and enjoy wetlands in their own backyard. The Port has sought to actively promote community involvement at the park and to help local schools take advantage of the hands-on educational experience available at Heron's Head Park. To that end, Port staff initially combined efforts with the City College of San Francisco Center for Habitat Restoration, to develop and conduct school and community participation programs at Herons Head Park from 1998 through 2000. This work was funded by a federal grant to City College. During that period, a part-time Park Coordinator with expertise in environmental education and wetland ecology developed a variety of programs for schools and community groups in the vicinity of Heron's Head Park, and for City College students. These programs offered opportunities to groups with a wide variety of ages and interests, from a short field trip for pre-scholars from a nearby child development center, to a semester-long series of field trips for a local high school science class, to independent study of wetland ecology for City College students. The programs also included monthly community participation days on weekends to promote involvement of non-student park visitors.

This Print Covers Calendar Item No. **6A**

Concurrently, Literacy for Environmental Justice (LEJ), a community-based non-profit organization dedicated to providing environmental education programs to schools and youth groups in the Bayview-Hunter's Point community, developed additional education and community/volunteer programs at Heron's Head Park. LEJ worked in cooperation with the City College programs, but with independent grant funding. Together, these programs brought thousands of youth and adults to study and appreciate one of the few remaining wetlands in the city, and inspired volunteers to contribute many thousands of hours towards maintaining the park and wetlands.

Although the grant funding for the City College programs was limited to a three-year term, ending in 2000, these programs developed a strong foundation of community support. Port staff recognized the value of continuing student and community participation, both to the participants and to the park. From 2001 to the present, the Port has contracted with LEJ to continue education and community outreach programs at Heron's Head Park. To date, the Port has expended less than $50,000 annually on contracts for education and community participation programs. LEJ's programs have also been funded by other sources, such as grants and staffing by federally funded Americorps members, which have supplemented the Port's funding of the education and community programs. LEJ is physically located in Bayview-Hunter's Point, has demonstrated commitment and experience in providing culturally relevant environmental education programs for urban youth, and offers a high degree of technical expertise. LEJ also draws youth directly from the community that Heron's Head Park is intended to serve, to participate as interns and student leaders. Consequently, LEJ is uniquely qualified to conduct education and community outreach programs at Heron's Head Park, and therefore, the Port has contracted with LEJ on a sole-source basis with approval from the Human Rights Commission and Civil Service Commission.

**Proposed Request for Proposals**

Each year, Port staff has carefully overseen the services and fees for the education and community participation programs, and found them to be more than fair and reasonable relative to the benefit to the Port. However, staff recognizes that other organizations may be capable of providing high quality and cost-effective programs. Staff therefore seeks Commission authorization to issue a request for proposals to conduct education and community participation programs at Heron's Head Park for a contract term of two years.

The scope of work will include, but not be limited to, the following:

- Developing and conducting classroom and on-site environmental education programs for K-12 schools.
- Supporting continued involvement by teachers who have developed curriculum associated with Heron's Head Park and working with new teachers to develop their capacity to use the park in their curriculum.
- Organizing and staffing community participation events and other volunteer opportunities at the park.

- Working closely with Port staff to support the Port's operation and maintenance efforts.
- Promoting public awareness and support for the park through media, community outreach, and other venues.
- Planning a teachers' training workshop to support educators in developing their technical expertise and capacity to conduct their own educational programs.

The selected contractor will be expected to work in partnership with Port staff responsible for operation and maintenance of the park, including Environmental Health & Safety and Maintenance Divisions personnel. The contractor will track and document and report all program activities (i.e. number and location of schools participating, number of students served, volunteer hours contributed, etc) and will be required to meet specific program goals. Program goals will include serving at least 1,200 students/year, hosting monthly community participation days (12/year), and organizing at least four corporate volunteer events.

**Funding**

The annual cost for the proposed scope of services is estimated at $65,000. The Port has allocated funds in the current fiscal year operating budget to support operation and maintenance of Heron's Head Park, including education and community participation programs. Therefore, staff proposes to use these funds available in the current operating budget to certify the contract and pay for services rendered during the current fiscal year. At the time of contract award, the appropriated funds will be limited, so staff intends to award the contract based upon a two year term, with funding limited to the current fiscal year. As additional funding becomes available, the contract will be modified to fund the services required in the next fiscal year, at a not-to-exceed amount of $65,000/year.

**Summary**

Port staff recommends that the Commission authorize the issuance of a Request for Proposals to provide environmental education and public participation programs at Herons Head Park for a two-year contract term, as described in this staff report.

Prepared by: Carol Bach, Assistant Deputy Director, EH&S
for Alex Lee, Director, Facilities and Operations

**PORT COMMISSION**

**CITY AND COUNTY OF SAN FRANCISCO**

**RESOLUTION NO. 04- 54**

WHEREAS, the Port wishes to provide education, public participation and volunteer opportunities at Heron's Head Park, a unique wetlands habitat and public access park located on the southern waterfront; and

WHEREAS, such programs support the Port's efforts to operate and maintain Heron's Head Park; and

WHEREAS, the Port does not have the required staff or expertise to provide the desired services; and

WHEREAS, to accomplish these goals the Port must obtain the services of a contractor with demonstrated expertise in wetland ecology and urban environmental education; and

WHEREAS, the estimated cost to provide these services is $65,000 per year, and these funds are available in a Facilities Maintenance Project in the Port's fiscal year 2004-2005 operating budget; and

WHEREAS, after the solicitation and evaluation of proposals, Port staff will seek Commission authorization for award of a contract for the services described herein for a two-year term, based upon the initial available funding, and staff will also seek authorization to modify the contract as additional funding becomes available for services in the subsequent fiscal year; now, therefore be it

RESOLVED, that the Port Commission hereby authorizes Port staff to issue a Request for Proposals to provide education and public participation programs for a two-year term at Heron's Head Park.

***I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of June 22, 2004.***

_____

Secretary

PORT OF SAN FRANCISCO

**MEMORANDUM**

June 16, 2004

**TO:** MEMBERS, PORT COMMISSION
Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Kimberly Brandon
Hon. Susan Bierman
Hon. Ann Lazarus

**FROM:** Monique Moyer
Executive Director M Moyer

**SUBJECT:** Request for authorization to amend Contract No. 3048-03/04 with Literacy for Environmental Justice to provide education and public participation programs at Heron's Head Park.

**DIRECTOR'S RECOMMENDATION:** AUTHORIZE AMENDMENT OF CONTRACT TO EXTEND TERM AND INCREASE CONTRACT AMOUNT.

Since 2001 the Port has contracted with Literacy for Environmental Justice to provide environmental education and community participation programs at Heron's Head Park as part of the Port's facilities maintenance projects, funded annually in the operating budget. Literacy for Environmental Justice (LEJ) is a community-based non-profit organization dedicated to providing environmental education programs to schools and youth groups in the Bayview-Hunter's Point community. Under its current contract with the Port (FY 2003-04), LEJ has lead over 1,000 students in environmental education programs at Heron's Head Park, and guided volunteers contributing many thousands of hours of labor toward on-going habitat restoration and park maintenance. For example, Thurgood Marshall Academic High School teamed with City College of San Francisco Biology Department faculty to undertake a series of visits focused on soil and sediment monitoring at Heron's Head Park over the course of the 2003-04 school year. El Dorado Elementary School worked with LEJ to conduct on-site education programs for 20 of its teachers and 180 students. El Dorado Elementary School's programs included planting 35 new plants and thirty small willow trees. LEJ organized and lead similar programs for many other schools, including Gloria R. Davis Middle School, Malcolm X Academy, and Mission High School. LEJ has also organized and lead many education and volunteer events for adults, such as park cleanup and guided park tours conducted in conjunction with an Earth Day celebration, special events for corporate and other volunteer groups to do park cleanup and weeding, and volunteer "workdays" on the second Saturday of each month.

This Print Covers Calendar Item No. **6B**

While Port staff are very pleased and proud of the work that LEJ has done at Heron's Head Park, we recognize that there may be other organizations in the community, some of which are new or with newly developing capability in environmental education, that may able to provide high quality and cost-effective programs. Staff therefore proposes to issue a request for proposals to conduct education and community participation programs at Heron's Head Park, and award a new professional service contract based on a competitive selection process. LEJ's current contract ends June 30, 2004. Consequently, the contract solicitation and award process will cause a suspension of these services at Heron's Head Park until a new contractor is selected.

Therefore, Port staff requests authorization to execute an amendment of LEJ's contract to extend the term for three months (to September 30, 2004) and to increase the contract amount by $12,425 dollars (to a total contract amount of $62,125), and thereby minimize this disruption in service during the summer when many child-care and recreation programs are in need of quality, local activities for youth. The Port has allocated funds in the Fiscal Year 2004-05 operating budget to support operation and maintenance of Heron's Head Park, including education and community participation programs. Port staff recommends that Commission authorize an amendment of the existing contract with LEJ accordingly.

Prepared by: Carol Bach, Assistant Deputy Director, EH&S
for Alex Lee, Director, Facilities and Operations

**PORT COMMISSION**

**CITY AND COUNTY OF SAN FRANCISCO**

**RESOLUTION NO. 04-55**

WHEREAS, the Port wishes to provide education, public participation, and volunteer opportunities at Heron's Head Park, a unique wetlands habitat and public access park located on the southern waterfront; and

WHEREAS, such programs support the Port's efforts to operate and maintain Heron's Head Park; and

WHEREAS, the Port's existing contract for environmental education and community participation programs, without any term extension, will expire on June 30, 2004, during a time when community youth programs are in need of meaningful educational activities in the local area; and

WHEREAS, the Port further wishes to minimize disruption of existing programs during the competitive selection process for a new professional services contract; and

WHEREAS, this goal can be achieved by amending the Port's existing contract with Literacy for Environmental Justice to extend the contract term by three months and increase the total contract amount by $12,425; and

WHEREAS, funds to support education and public participation programs at Heron's Head Park are available and included in a Facilities Maintenance Project for fiscal year 2004-05; therefore be it

RESOLVED, that the Port Commission hereby authorizes Port staff to execute an amendment to Contract No. 3048-03/04 with Literacy for Environmental Justice to extend the contract term by three months and increase the total contract amount by $12,425, resulting in a contract amount not-to-exceed $62,125.

***I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of June 22, 2004.***

_____

Secretary

PORT OF SAN FRANCISCO

**MEMORANDUM**

June 16, 2004

TO: MEMBERS, PORT COMMISSION
Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Kimberly Brandon
Hon. Sue Bierman
Hon. Ann Lazarus

FROM: Monique Moyer
Executive Director

SUBJECT: Acceptance of the "Port of San Francisco Nexus Study" report prepared by Bay Area Economics and Yano Accountancy Corporation.

**DIRECTOR'S RECOMMENDATION:** ACCEPT THE "PORT OF SAN FRANCISCO NEXUS STUDY" REPORT PREPARED BY BAY AREA ECONOMICS AND YANO ACCOUNTANCY CORPORATION.

**Background**

At its September 10, 2002 meeting, the Port Commission approved revisions to the FY2002/03 Operating Budget, including a $2 million set aside to reimburse the City for legally eligible costs of services provided to the Port as determined by a study to be undertaken later in the fiscal year. The Port staff together with representatives from the Mayor's Office, Controller's Office and the City Attorney formed a committee to oversee the study. The committee determined that it was necessary to engage an outside, independent consultant to conduct a thorough study of the balance of payments and services costs between the Port and the City. The Port staff issued an RFP for the preparation of a Nexus Study. Bay Area Economics (BAE) along with its MBE subcontractor, Yano Accountancy Corp, was selected and, in May 2003, the Port Commission authorized the Executive Director to award the professional services contract for the preparation of the Nexus Study for a fee not to exceed $200,000 to Bay Area Economics and Yano Accountancy Corp.

**This Print Covers Calendar Item No. 7A**

The Nexus Study was commissioned to:

- provide additional information on the Port's financial relationship with all City departments;
- estimate the total amount of payments from the Harbor Fund to the City's general and special funds, as well as City tax receipts derived from Port uses and activities, fees and the value of in-kind contributions by the Port to city departments;
- present the balance of payments and service costs between the Port and the City's general and special fund departments; and
- provide guidelines and methodologies for determining appropriate payments for City services in the future.

BAE completed its work and has submitted its report dated May 2004. The final report is attached for your reference. An Executive Summary precedes the more detailed report and schedules. The analysis of revenue flows found that approximately $20 million of tax revenues to the General Fund is generated annually from Port tenants and other uses of the Port Area. The Executive Summary includes three tables that present the balance of payments by methodology and department for each of the Fiscal Years 2000/01, 2001/02 and 2002/03. The payment methodologies and the payment obligations are discussed further in the next agenda item. The following table sets forth the balance of payments through Fiscal Year 2002/03:

**Reimbursement Due for City Services thru FY 02/03 - Final Report from BAE &YAC**

| | Allocation Method | FY 00/01 | FY 01/02 | FY 02/03 | Balance of Payments |
|---|---|---|---|---|---|
| ***Routine Services*** | | | | | |
| DPT | (to be negotiated) | $ - | $ - | $ - | |
| SFFD | Svc Based Method 1 | (91,518) | (10,184) | (69,979) | |
| SFPD | Svc Based Method 1 | 629,987 | 647,172 | 764,293 | |
| ***Special Events*** | | | | | |
| Fleet Week | 100% Sponsorship | 125,515 | - | 142,685 | |
| 4th of July | No Port Sponsorship | - | - | - | |
| New Year's Eve | No Port Sponsorship | - | - | - | |
| Ball Park | Benefit Allocation | 41,900 | 44,141 | 54,592 | |
| Total balance of payments | | $ 705,884 | $ 681,129 | $ 891,591 | $ 2,278,604 |

The Nexus Study provides a streamlined framework to calculate future balance of payments based on the data gathered for the three most recent fiscal years. If the operations and relationship between City departments and the Port does not change significantly, BAE and YAC projects that the Port can use the result of the Nexus Study for the next five to ten years as the basis for calculating the balance of payments.

**Staff Recommendation**

Accept the "Port of San Francisco Nexus Study" report submitted by Bay Area Economics and Yano Accountancy Corporation.

Prepared by: John Woo, Supervising Fiscal Officer
Andres Acevedo, Principal Administrative Analyst

**PORT COMMISSION**
**CITY AND COUNTY OF SAN FRANCISCO**

**RESOLUTION NO. 04-56**

WHEREAS, the Commission, in October 2002, authorized staff to issue a Request For Proposal for a Nexus Study; and

WHEREAS, the Commission, in May 2003, authorized award of the professional services contract to Bay Area Economics and Yano Accountancy Corporation; and

WHEREAS, Bay Area Economics and Yano Accountancy Corporation has submitted the final report dated May 2004; now, therefore be it

RESOLVED, that the San Francisco Port Commission hereby accepts the "Port of San Francisco Nexus Study" report from Bay Area Economics and Yano Accountancy Corporation.

***I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of June 22, 2004.***

_____
SECRETARY

PORT OF SAN FRANCISCO

**MEMORANDUM**

June 16, 2004

TO: MEMBERS, PORT COMMISSION
Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Kimberly Brandon
Hon. Sue Bierman
Hon. Ann Lazarus

FROM: Monique Moyer
Executive Director

SUBJECT Authorization to expend $1 million in Port funds appropriated in Fiscal Year 2003/04 to reimburse the General Fund for City Services received in Fiscal Years 2000/01, 2001/02, 2002/03 and 2003/04

**DIRECTOR'S RECOMMENDATION:** APPROVE THE EXPENDITURE OF $1 MILLION IN PORT FUNDS TO REIMBURSE THE GENERAL FUND FOR CITY SERVICES RECEIVED IN FISCAL YEARS 2000/01, 2001/02, 2002/03 AND 2003/04 BASED ON THE NEXUS STUDY.

As discussed in the previous agenda item, the Port has received the final "Port of San Francisco Nexus Study" report from Bay Area Economics and Yano Accountancy Corporation. The Nexus Study provides a basis for analyzing and settling the balance of payments and service costs between the Port and other departments of the City.

The City has requested that the Port Commission take action on this item now in order to transfer the Port's FY 2003-04 General Fund payment by year-end or June 30, 2004.

**CALCULATION OF THE PROPOSED PAYMENT**

By its Resolution No. 03-64 on September 9, 2003, the Port Commission approved revisions made by the Mayor's Office and the Board of Supervisors to the Port's proposed Operating Budget for Fiscal Year 2003/04 (approved by the Port Commission in January 2003). Among the revisions added to the proposed budget was a $2 million set aside to reimburse the City for legally eligible costs as determined by the Nexus Study which was in progress. This $2 million set aside was in addition to the Fiscal 2002/03 set aside for the same amount. Resolution No 03-64 directed the Executive Director to seek Commission authorization for any actual expenditure from the current $2 million set aside.

**This Print Covers Calendar Item No. 7B**

Port staff analyzed the Nexus Study results and has calculated the current balance of payments obligation as follows:

| | |
|---|---|
| True-up balance of payments for FY 2000/01, 2001/02 and 2002/03 per final study | $ 278,604 |
| Estimated balance of payments for FY 2003/04 | 787,962 |
| Total potential balance of payments obligation due June 30, 2004 | $ 1,066,566 |

However, the FY 2003-04 amount of $787,962 is a projection. The actual amount will depend upon the Fire Department's actual FY 2003-04 expenditures that the Port will better understand after we complete the year-end closing of the Port's accounts over the next month. Thus, the actual amount could be slightly more or less than $1,066,566. As a result, we are requesting the Commission to authorize a $1 million payment to the City's General Fund and allow the Executive Director to make any non-material adjustment based on the final year-end amounts.

***True-up balance of payments for FY 2000/01, 2001/02 and 2002/03***

At the request of the Mayor's Office, BAE and YAC issued a preliminary memorandum in November 2003 presenting the estimated balance of payments for FY 2001/02 and FY 2002/03. The preliminary memorandum was in turn presented to the Port Commission as the basis for a good faith estimate of the costs of services provided to the Port for which the City is eligible to be reimbursed. By Resolution No. 03-69, the Port Commission approved the expenditure of $2 million to reimburse the General Fund as of June 30, 2003 for municipal services provided in FY 2000/01, FY 2001/02 and FY 2002/03. The Executive Director was also directed to pursue the completion of the Nexus Study and to bring recommendations to the Commission consistent with the findings of the final Nexus Study for its consideration. A "true-up," based on the final report, was expected. The following table shows the derivation of a $278,604 balance due based on the final Nexus Study report:

**Reimbursement Due for City Services thru FY 02/03 - Final Report from BAE and YAC**

| | Allocation Method | FY 00/01 | FY 01/02 | FY 02/03 | Balance of Payments Inc (dec) |
|---|---|---|---|---|---|
| ***Routine Services*** | | | | | |
| DPT | (to be negotiated) | $ - | $ - | $ - | |
| SFFD | Svc Based Method 1 | (91,518) | (10,184) | (69,979) | |
| SFPD | Svc Based Method 1 | 629,987 | 647,172 | 764,293 | |
| ***Special Events*** | | | | | |
| Fleet Week | 100% Sponsorship | 125,515 | - | 142,685 | |
| 4th of July | No Port Sponsorship | - | - | - | |
| New Year's Eve | No Port Sponsorship | - | - | - | |
| Ball Park | Benefit Allocation | 41,900 | 44,141 | 54,592 | |
| Total balance of payments | | $ 705,884 | $ 681,129 | $ 891,591 | $ 2,278,604 |
| | Reimbursement previously authorized (November 2003) | | | | (2,000,000) |
| | Balance due based on final report (May 2004) | | | | $ 278,604 |

*Fiscal 2003/04 Calculation*

The completed Nexus Study provides a basis for calculating the balance of payments for Fiscal Year 2003/04. The following table summarizes the current calculation:

| **Estimated Amount Due for FY 03/04 City Services - Based on Nexus Study Results** | | |
|---|---|---|
| ***General Fund Services Provided:*** | | |
| SFFD Fire Boat costs - Service Based Methodology | | $ 1,637,387 |
| SFFD Land-side costs - Service Based Method 1 | | 308,979 |
| SFPD - Service Based Method 1: | | |
| Calls for Service | $ 368,780 | |
| Patrol | 358,245 | |
| Marine Unit | 123,219 | 850,244 |
| ***Special Events (police services only):*** | | |
| Fleet Week - 100% sponsorship | | 146,923 |
| Ballpark - Benefit Allocation Methodology | | 54,630 |
| ***Work order charges and rental offset:*** | | |
| SFFD Fire Boat Operations directly charged to Port | | (1,860,000) |
| SFPD Police Security work order | | (120,000) |
| Rental value - Fire Station | | (230,201) |
| | | $ 787,962 |

As shown above, the sum of true-up calculation for the balance of payment obligation through Fiscal Year 2002/03 of $278,604 and the current estimated amount for Fiscal Year 2003/04 of $787,962 is $1,066,566. The 2003/04 obligation cannot be finally determined until the books are closed for the year. Based on the foregoing, it is likely that the total balance of payments obligation will not be less than $1,000,000. This payment would be within the Port's approved FY 2003/04 Operating Budget.

**Calculation methodology.** In developing the proposed payment, Port staff worked closely with representatives of the City Attorney's office in selecting methodologies that were consistent with past California State Attorney General opinions', as well as the briefs prepared in prior litigation between the State of California and local governments regarding the proper use of tide land trust revenues. The justifications for the chosen methodologies are present below.

Department of Parking and Traffic

The Department of Parking and Traffic (DPT) has provided parking enforcement on Port property since 1975. From 1975 to 1996 the City retained the citation revenue collected. In 1996 the City and Port entered in to a settlement agreement that guaranteed annual payment to the Port of $1.2 million each year from 1997 though 2017 to compensate the Port for current and past citation revenues. During the review of the settlement agreement for this study it was determined that this payment was to be indexed to increases in the parking fine rates. DPT has not increased payments to the Port after increasing the parking fine rates. We have set-up a meeting with Muni's General

Manager to discuss adjusting the annual payment. Pending the conclusion of these discussions with DPT, we decided to exclude DPT services from the calculation at this time and account for them separately in the FY 2004/05 close out.

San Francisco Fire Department

The Port currently pays for the full cost of the fireboat and one full time fire inspector based on an MOU that was written when title of the fireboat Phoenix was transferred from the Port to the SFFD in 1995. Presently the Port does not pay any costs associated with land based fire services, and the SFFD does not pay rent for the two fire stations on Port property.

BAE and YAC calculated the cost allocation for fire service using the following three methodologies, 1) the existing MOU, 2) the land area serviced, and 3) calls for service. In past opinions the Californian State Attorney General has stated that, whenever possible, cost allocation based on actual service delivery is the preferred method. Therefore, we selected this method. The allocation includes a portion of the fireboat cost and the cost of land based service as well as the estimated potential market rental income for the two fire stations on Port property. The net result is the Port has overpaid for fire services from the City by approximately $183,835 annually at least since 2000-01.

San Francisco Police Department

SFPD costs were broken down into two components, calls for service and regular patrol. As with the SFFD, costs were based on actual services delivered, with Patrol costs based on road miles served with adjustments to account for the actual call for service ratio between Port lands and the surrounding City police service areas. The allocation method selected excludes the cost of services to leased properties, but does assign service costs to the Port for non-leased and public spaces, as well as road right of ways. Based on this methodology, the Port owes the Police Department $850,244 in FY 2003-04 of which it has paid $120,000 through a separate work-order.

Special Events

BAE and YAC reviewed the costs associated with special events, such as Fleet Week and the annual New Year's Eve celebration, that take place on Port property. In the case of most privately sponsored events, the sponsor reimburses the City the costs for policing and traffic control. In the case of public events, the City has absorbed most of the police and traffic control costs.

In allocating the cost of special events, we determined that the Port was the primary sponsor of Fleet Week and, as such, should be responsible for the Police and DPT costs associated with this event. In the case of the New Year's Eve and the Fourth of July, it was clear that these were citywide events. The Port was asked by the City to permit these events on Port properties, but was not advised that the Harbor fund would be charged with the costs of police and traffic control. The City can request reimbursement for future special events, but in these cases the Port Commission will have the opportunity to review the estimated costs, prior to agreeing to allow the event on Port land.

Taking the aforementioned in mind and the special events cost allocation presented above, we are assigning the full cost to the City of Fleet Week to the Port, but we are not assigning any of the New Year's Eve or Fourth of July costs to the Port. The Port's portion of the City's cost of Fleet Week are $146,923 in FY 2003-04. Since there was no Fleet Week in FY 2001/02, there are no costs in that year.

China Basin Ball Park

We have allocated the costs associated with the policing incurred prior to and following the San Francisco Giants baseball games based on the ratio of Port revenue to the total government revenue generated by the Ball Park. We chose this allocation methodology because it is a fair distribution of the expenses relative to the financial benefits received from the Ball Park. In FY 2003-04, the Port's portion of the Police Department's Ball Park related costs is $54,630.

## FUTURE YEAR RAMIFICATIONS

This Commission's authorization to expend FY 2003-04 funds does not commit the Commission to authorize expenditure of funds for similar level or type of services in FY 2004-05. Rather, the Commission will evaluate the conclusions and analysis in the Nexus Study, and take action accordingly at the end of FY 2004-05.

## STAFF RECOMMENDATIONS

Approve a total reimbursement transfer to the General Fund for $1,000,000[1]. Authorize the Executive Director to make any required non-material adjustment based on the final year-end amounts.

Prepared by: John Woo, Supervising Fiscal Officer
Andres Acevedo, Principal Administrative Analyst

[1] We currently estimate to owe the City's general Fund $278,604 for services from 2000-01 through 2001-02 plus $787,962 for services provided in FY 2003-04 for a total of $1,066,566 that the Port owes the City's General Fund. The actual amount will depend on the results of closing the Port's FY 2003-04 accounts.

**PORT COMMISSION**
**CITY AND COUNTY OF SAN FRANCISCO**

**RESOLUTION NO. 04-57**

WHEREAS, Under Charter Section B3.581, the Port Commission has the exclusive power to expend all funds necessary to carrying out its power and duty to operate and control the port areas of San Francisco, including the authority to pay for the rendition of services reasonably necessary for the fulfillment of public trust purposes of the State, as distinguished from those for local or purely private benefit; and

WHEREAS, On September 9, 2003 the Port Commission, by Resolution No. 03-64 approved the FY 2003/04 Operating Budget; and

WHEREAS, The Operating Budget included $2.0 million for a transfer to the City's General Fund for municipal services that were not previously reimbursed to the City by either work orders or the annual Countywide Cost Allocation Plan payment; and

WHEREAS, The Commission previously directed the Executive Director to seek Commission authorization prior to expending any of the $2 million; and

WHEREAS, Bay Area Economics and Yano Accountancy Corporation has submitted the final Nexus Study report and the report has been accepted by the Port Commission; and

WHEREAS, Port staff calculations, based on the Nexus Study results, indicate that it is likely not less than $1 million is reimbursable to the City for the costs of services provided to the Port during FY 2000/01, FY 2001/02, FY2002/03 and FY2003/04; now, therefore be it

RESOLVED, That the Port Commission hereby approve the expenditure of $1.0 million to reimburse the City for municipal services provided in FY 2000/01, FY 2001/02, FY 2002/03 and FY 2003/04; and be it further

RESOLVED, That the Port Commission authorizes the Executive Director to make any non-material adjustment to the reimbursement amount based on final costs at year-end.

***I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of June 22, 2004.***

_____
Secretary

SF
P55
#3
6/22/04

# SAN FRANCISCO
# PORT COMMISSION

## JUNE 22, 2004
## MINUTES OF THE MEETING

**MEMBERS, PORT COMMISSION**

HON. WILFRED HSU, PRESIDENT
HON. MICHAEL HARDEMAN, VICE PRESIDENT
HON. KIMBERLY BRANDON
HON. SUE BIERMAN
HON. ANN LAZARUS

**MONIQUE MOYER, EXECUTIVE DIRECTOR**

# CITY & COUNTY OF SAN FRANCISCO
# PORT COMMISSION

## MINUTES OF THE REGULAR MEETING
## JUNE 22, 2004

### 1. CALL TO ORDER / ROLL CALL

Commission President Wilfred Hsu called the meeting to order at 3:17 p.m. The following Commissioners were present: Wilfred Hsu, Michael Hardeman, Kimberly Brandon, Sue Bierman and Ann Lazarus.

### 2. APPROVAL OF MINUTES - June 8, 2004 Meeting

ACTION: Commissioner Hardeman moved approval; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor; the minutes of the June 8, 2004 meeting were adopted.

### 3. EXECUTIVE

A. Executive Director's Report. Executive Director Monique Moyer reported the following:

- City Budget Process
  Last week, at the Board of Supervisors' budget committee hearing, the budget analyst proposed various cuts to the Port's budget, which the Commission reviewed and reapproved in May. Those cuts total approximately $700,000. All things considered, they are not very significant in terms of dollars but they are in terms of personnel. The budget analyst proposed the elimination of two existing positions and one proposed new position, a reduction in the City's Attorney's budget as it relates to the Port and some reductions in contract and other overhead expenditures of the Port. Staff agreed with the budget analyst on two issues i.e. the reductions to the contracts and other overhead. Staff declined to dispute with the budget analyst the reduction in the City Attorney's contract time. The budget analyst has made proposals to the City Attorney's budget with respect to the Port's and PUC's funding which the City Attorney's office is addressing. However, staff has argued in favor of retaining the positions. Those positions were not part of the layoffs as they were valuable to the organization. Rather than debate the matter at the budget committee, staff asked for more time. Ms. Moyer reminded the Commission that she's working on the reorganization of the Port and needs time to look at all facets of our business. The budget committee seems incline to give the Port more time but they have not yet agreed to it. The second hearing of the Board of Supervisors' budget committee, in which the Port's budget will be discussed, is scheduled for Wednesday, June 30th at 10 a.m.

- Status of the proposed Port of San Francisco Embarcadero National Register Historic District

As Ms. Moyer mentioned at the last meeting, staff was scheduled to seek Commission's approval of the proposed National Register Historic District nomination today. Pier 39 requested the Port to grant them more time to determine the effects of the nomination, particularly to the building of the pier. Pier 39 has received approval from various constituencies to delay the presentation to the Commission until September to ensure that Pier 39 understands the nomination and how it will affect them.

**4. CONSENT**

A. Request for approval of a five-year lease with Delancey Street Foundation, Inc. for space located at Seawall Lot 349, Building 117 on Michigan Street between 20th Street and 21st Street. (Resolution No. 04- 51)

ACTION: Commissioner Hardeman moved approval; Commissioner Brandon seconded the motion. All of the Commissioners were in favor; Resolution No. 04-51 was adopted.

**5. REAL ESTATE**

A. Request to authorize staff to reject the sole proposal submitted pursuant to Request for Proposals (RFP) for the Lease of the Roundhouse One Building located at the Embarcadero and 1500 Sansome Street. (Resolution No. 04-52)

Sr. Leasing Manager Jeff Bauer indicated that on December 17, 2003, the Port Commission authorized staff to issue a RFP to lease Roundhouse One. Proposals were due April 28, 2004. The Port undertook an extensive advertising campaign. Despite this effort, the Port received only one proposal, ActivSpace. The material terms of the ActivSpace proposal are as follows:

- Use: ActivSpace would develop a facility that provides sublet studio spaces for its customers, primarily artists, hobbyists, and small business owners.
- Base Rent Offer: $9.00 annually per gross s.f./$0.75 monthly. This rate would include the Port providing electrical and janitorial services.
- Rent Escalation: Annual CPI with a 1.5% minimum and a 5% maximum.
- Rent Commencement: At issuance of occupancy permits.
- Lease term: 40 years.
- Lease extensions: Two Ten-year options.
- Tenant Improvement Allowance: $15 per s.f. or $300,000 to be provided by Port.

A team of Port Senior Real Estate staff evaluated the ActivSpace RFP proposal with the guidance of the following evaluation criteria set forth in Section X of the RFP:

- Economic return to the Port based on Base Rent and Percentage Rent proposed by Respondent.
- Quality, uniqueness, and potential for success and successful fit of the use concept based on the type and character of project proposed, targeted clientele, appeal to a diversity of users, [and] compatibility with the neighborhood's setting.

- Term of Lease based on minimum term required to support cost of proposed improvements and comparable situations in the market.

Based on the review of the ActivSpace proposal, the selection team determined the following:

- Insufficient Economic Return to Port. Port staff estimates that Roundhouse One has a minimum valuation of between $1.50 and $2.00 per gross square foot for a lease in which the Port would provide services such as electrical and janitorial services at between $0.50 and $0.75 per square foot. The comparable Port facility is located at Roundhouse Two with average rates ranging from $2.00-$2.25 for a full service gross lease per square foot. Assuming a fully service lease in which Port's expenses range from $0.50-$0.75 in addition to ActivSpace's request for tenant allowance improvement of $15 per square foot, ActivSpace's offer would equate to only $0.75 per square foot.
- Questionable use in the area. While ActivSpace's business model has worked in other cities, their typical locations are industrial areas and/or neighborhoods in transition from industrial warehouse/manufacturing to commercial/residential uses.
- Length of Lease Term. ActivSpace proposes a lease term of 40 years, with two 10-year options, for a total of 60 years. The selection team found that this length of term was not justified by the scope of required tenant improvements or by similar situations in the marketplace.

Because the RFP generated only a single proposal, and because that proposal fared poorly against a number of the selection criteria as described in Section III.B above, Port staff recommends rejecting the ActivSpace proposal. Due to the poor response to the RFP after extensive outreach, Port staff also believes that reissuing the RFP would unlikely result in additional responses. Consequently, Port staff recommends that the RFP be rescinded, and that Port staff be directed to pursue potential tenants for the space through direct negotiations.

ACTION: Commissioner Hardeman moved approval; Commissioner Brandon seconded the motion. All of the Commissioners were in favor; Resolution No. 04-42 was adopted.

B. Request for approval of Memorandum of Understanding between the Entertainment Commission and the Port regarding issuance of entertainment permits on Port property. (Resolution No. 04-53)

Senior Leasing Manager Jeff Bauer indicated that in 2000, the Civil Grand Jury recommended that the City & County of San Francisco create a new commission to assume the issuance and administration of entertainment permits. In FY 2003/04, the Entertainment Commission assumed all responsibilities from the Police Department for the issuance of the entertainment permits such as loud speaker permits, place of entertainment, dance hall keeper permits, etc. The Entertainment Commission does not have jurisdiction over Port property for entertainment permits. However, under the Administrative Code, the Port may delegate this power to the Entertainment Commission through a Memorandum of Understanding. The Port does not wish to assume the managerial duties associated with the issuing of entertainment permits. The Port has

elected to delegate this power to Entertainment Commission. The material terms of the MOU include the following:

- The term of the MOU is for one year.
- The Entertainment Commission will accept all applications, perform all administrative tasks, and render decisions related to the issuance or denial, the suspension and/or revocation, and the transfer of entertainment related permits on Port property.
- The Entertainment Commission is required to solicit the Port's written comments and recommendations for all permit activities on Port property, which must be given "all due consideration" by the Entertainment Commission. The Entertainment Commission's decision is final, unless appealed.
- Decisions concerning entertainment permits may be appealed to the Entertainment Commission or the Board of Appeals.
- The MOU contains a procedure for resolution of potential disputes between the Port and Entertainment Commission.
- The Entertainment Commission will not seek any reimbursement from the Port for costs incurred by the Entertainment Commission in the administration of permits on Port property

Mr. Bauer requested Commission's approval to authorize the Port Executive Director to execute the MOU with the Entertainment Commission to facilitate the effective transfer of the issuance of permit duties from the Port to the Entertainment Commission.

Ernestine Weiss voiced her concern about amplified sound as they have experienced in the past. She was happy to hear that Jeff Bauer would still be the contact person for special events at the Port.

Commissioner Bierman asked if the Port is giving up its right and would the Port be powerless to respond to people's concerns or complaints. Mr. Bauer replied that the permit appeal would go to the Entertainment Commission and potentially to the Board of Appeals. There are two kinds of entertainment permits: (1) special events permits and (2) place of entertainment or fixed permits. The more problematic permits are for special events. The Port has landlord-contracting rights to control special event permits. If someone wants to do an event at Pier 30/32, they are required to obtain a permit from the Entertainment Commission but the Port has full control because the Port has contractual rights. If for example, the World Trade Club would like to have a piano or music in their premises, they would need to obtain a "place of entertainment" permit. The Port has contractual control over the majority of the permits.

Mr. Bob Davis, Entertainment Commission Director, commented that they understand the responsibilities and look forward to working with the Port.

Mr. Bauer indicated that the term of the MOU is one year and the Port has an opportunity to change things in a year or two. Port staff will work cooperatively with the Entertainment Commission.

Commissioner Lazarus asked if this transfer would be analogous in other City

departments. If so, have other City departments pursue the same kind of transfer. Mr. Bauer replied that Rec & Park chose to do the permitting in-house. They chose not to delegate the power to the Entertainment Commission. The Port is looking at fixed permits primarily for restaurants. Staff executes approximately 25-30 permits a year.

Mr. Davis indicated that they are currently in the process of formulating an MOU with Rec & Park. The Entertainment Commission has been in existence for a year. They have been working with the Port with some of the issues relating to places of entertainment that are currently permitted. There was a desire to bring under one umbrella the whole permitting process to provide a more simplified and easier system for all of the permittees to understand and for a process of mitigation so that neighbors had a single body upon which they could approach. The permits require that everyone agree to the good neighbor policy.

Commissioner Brandon asked if the Port is giving up any revenues to the Entertainment Commission. Mr. Bauer replied no and added that prior to the Entertainment Commission the permits went through the Police Department, and they received those revenues directly.

ACTION: Commissioner Hardeman moved approval; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor; Resolution No. 04-53 was adopted.

## 6. ENGINEERING & MAINTENANCE

A. Request for authorization to issue a Request for Proposals for education and public participation programs at Heron's Head Park. (Resolution No. 04-54)

Asst. Deputy Director Carol Bach requested Commission's authorization to issue a RFP to provide education and community participation programs at Heron Head's Park (HHP). Heron's Head Park was constructed and opened to the public in 1998. For the first three years of its operation, education, community and public participation programs were funded by Federal money via a grant to the City College of San Francisco. At the end of those three years, the Port realized the great value of the education and community participation programs to the park. The programs are the heart and vitality of the park. Because of the education and public participation programs, the Port enjoys a great deal of volunteer labor contributed towards the care and maintenance of the park and it also supports an ongoing positive presence at the park that prevents it from becoming a neglected and less positively used location. Considering its remote location, the potential to go astray is significant. Staff feels strongly that having the public and the local schools involved have been of great benefit to the park and of great value to the Port. When the federal funding that supported these programs ended in 2001, the Port has been supporting the education and community participation programs at the park. The contracts have been less than $50,000 a year and the work that has been done has also been supplemented primarily by the State and some private grants to support the programs. From 2001 to the present, the Port has contracted with Literacy for Environmental Justice which was founded and located in the Bayview and is dedicated to providing environmental education to urban youth specifically with the focus on the communities that Heron's

Head Park was built to serve. The Port contracted with LEJ, a small non-profit organization, on a sole source basis until the present. At this time, staff feels that it is appropriate to open up this opportunity to other entities who may be qualified to provide the Port with professional services to support the education and community programs at the Port.

The scope of work will include:

- Developing and conducting on-site and in the classroom educational experiences related to the park.
- Supporting continued involvement by teachers who have developed curriculum associated with Heron's Head Park and working with new teachers to develop their capacity to use the park in their curriculum.
- Organizing and staffing community participation events and other volunteer opportunities at the park. For example, there are a lot of volunteer organizations in the community but they need someone to help them organize and direct their efforts. LEJ was instrumental in that process. Most recently, Hands-On San Francisco, a group of investment bankers sought out opportunities to do volunteer work. They cleaned up trash and pulled weeds at Heron's Head Park. It would not have happened if it were not for LEJ who was responsible and dedicated its resources to finding and organizing the volunteers.
- Promoting community awareness of the park and creating appropriate opportunities for the community to participate.

Ms. Bach indicated that the selected contractor will work in close partnership with Port staff on general operations and maintenance issues and also with the Port gardeners to ensure that volunteer work coordinates with what the gardeners are working on. The annual cost for the scope of services is estimated at $65,000. Port staff has allocated funds in the current fiscal year's operating budget to support the community and education programs. Ms. Bach requested Commission's authorization to award the contract on a two-year basis contingent upon funding in the next fiscal year. She handed out to the Commission examples of the work that the community and education programs have yielded.

Francisco Da Costa, Environmental Justice Advocacy, indicated that he had not come to this meeting to address this subject. He is appalled, shocked, bewildered and confounded that after all that has been told to the Commission about Heron's Head Park, somehow the Port simply does not get it. Heron's Head Park is a few hundred feet away from an old toxic spewing power plant. It spews pathogens that are bad for the children, mercury, lead, PCBs, radiological materials that were removed, dredged materials and put on that land. As if we haven't learned from the lessons of Pier 92 and other great mistakes, we still want to take our children to a toxic dump. One need not be a scientist or an expert to see the power plant a few hundred feet away. How can we allow any decent human being to go to Chernobyl? That is a cesspool. It's a toxic dump. He gave the Commissioners over a thousand signatures from the nearby community and he will gather thousands more. The community that lives close by does not want to have anything to do with the Heron's Head Park. He pities the birds and the animals that go over the park. Some years ago, there was

a proposal to build a power plant at that site. The power plant was not built because they realized it was a toxic site. The so-called non-profit organization wanted to build a living classroom at that site and expended a lot of money. Now, they are proposing to take that project to McClaren Park. He has not said much but the people do not want them there. He does not know why this plague just doesn't go away. It haunts us again and again. For the sake of the children, Mr. Da Costa warned the Commission in adjudicating this issue.

Sue Abbott, biologist with PRBO Conservation Science, a non-profit conservation organization located in Stinson Beach, indicated that their mission is to conserve birds through science and outreach. For over 30 years, they have been working throughout the Bay Area studying birds and much of their work has been focused on wetland habitat. She congratulated the Port of San Francisco in undertaking habitat restoration in such a critical time. She highlight that wetland restoration in the Bay Area is a key recommendation of the San Francisco Bay Area Wetlands Eco-System goals project which brought together some of the pre-eminent scientists and habitat managers in 1999. Heron's Head Park is now a vital part of a whole wetland eco-system complex. Only 8 percent of historical tidal marsh is left and much of the loss has been human caused. The restoration efforts at Heron's Head Park are a success story and the fact that it was a community initiative also highlights another successful aspect of the project. Despite the loss of wetland habitat throughout the bay, the bay area still remains a critical estuary for millions of birds. In fact, the San Francisco Bay Estuary is the second largest estuary in the nation and arguably one of the most important and significant for wildlife. San Francisco Bay wetlands have been designated hemispherically important to shore birds. It means that over a million shore birds visit and depend on the bay and its wetland every year. Heron's Head Park, a restored tidal marsh, is one of the important places that birds can stop over and visit and have a place to roost and rest on their way up to their arctic breeding grounds or southern wintering grounds. During her visit to Heron's Head Park last week, she saw some of the birds that depend on it. There has been documented killdeer nesting, a migratory shore bird and it's adjacent to a colony of gulls. HHP provides habitat for those birds to rest and roost and have a safe place to rest and find food. Active and adoptive management is necessary for all restored eco-systems. We need to make sure those eco-systems remain healthy for the wildlife that depend on it. It will require support over time. With community involvement, youth in particular, there are ways to actually involve citizens to monitor habitat restoration projects. This is a great opportunity at Heron's Head Park. HHP has a unique advantage because the youth were involved in restoring it. It is in a pivotal position to be an innovative outdoor classroom for those youth and new kids in the area as well. It is also an opportunity to connect the urban public with successful habitat restoration projects and to discuss and highlight the importance of tidal marsh and other wetlands for wildlife. Her organization hopes to be active in the monitoring of wildlife that depend on this park and only through active monitoring and citizen involvement will they be able to follow and ensure that this eco-system remains healthy and for the future. She commended the Port of San Francisco for implementing the habitat restoration at HHP. She encouraged the active involvement of the Port of San Francisco and supporting HHP over the long term to ensure that the restoration continues to be a success.

Brita Dempsey, The Bay Institute, indicated that they have been aware of HHP through

networking with other San Francisco Environmental Education Programs. She mentioned the importance of access that this park provides particularly to the communities in the area. There are very few areas in San Francisco where students can learn about tidal areas. The fact that this is a restored area showing a natural habitat is an exciting and wonderful opportunity for the students to be in an outdoor classroom. From an educator's point of view, being able to bring students to an area that's been restored by other students is a great example of service learning and an inspiration to other generations to continue participating in the communities, to clean up parks and make the city a better place.

Anna Lee, indicated that last year she interned through Americorps as part of the Heron's Head Park program. She commented on the value of the HHP program. They worked with public schools mostly in Bayview Hunter's Point and Potrero Hill. These schools do not normally have funds to school trips. This program is beneficial for the students. They worked with students from 3rd to 12th grade who have never seen a bird except for a pigeon. It was an awesome experience working with the students who had a hands-on experience making a change. Through this program, they were able to compile and create a curriculum which is now a tool for more teachers to use in their science curriculum and it's applicable to science standards. This program fosters community service. Not only do many interns go through this program and learn a lot, and do a lot of outreach but it also teaches them to pass on the knowledge to young leaders who are emerging. As you know Bayview Hunter's Point suffers from a lot of environmental burdens. It is an environmental justice community. In a community where there are many toxins and polluting facilities, it's important to have something like HHP in an urban environment where people can come out and do something pro-active and see immediate positive results.

Commissioner Brandon asked Ms. Bach to comment on the types of testing that were done at Heron Head's Park and why the Port thinks it's a safe place for the kids. Ms. Bach replied that in 1998, the Port did some soil investigation prior to the construction of HHP to evaluate the presence of potential hazardous constituents and potential impacts on workers and visitors who would be using the park. The results were submitted to the City's Department of Public Health for review as required by the Health Code known as the Maher Ordinance which require characterization and evaluation of fill soils along the shoreline prior to construction. The results of that investigation did not indicate that there were concentrations of potentially hazardous constituents in the soil that would exceed any kind of regulatory threshold or pose a risk to construction workers. More recently, the Port did a more thorough evaluation of surface soils which park visitors are now being exposed to. The Port performed soil sampling and analysis and also focused on human health risk assessment. The Port also performed a site specific evaluation of the users that would be exposed, the type and extent of their exposure and calculated that the constituents present in the soil did not pose an unacceptable health risk to site visitors. The human health risk assessment looked at students, employees and non-student park visitors specifically the extent, frequency and duration and the amount of time they would be using the park. She asked Stephanie Cushing, from the Department of Public Health, to comment on the Public Health's determination.

Stephanie Cushing, Senior Inspector with the Department of Public Health, indicated that

she reviews work that is submitted to the Health Department with regard to the Maher Ordinance, which is the filled-in land which was originally filled in from the 1851 shoreline. Any time any work is done on the soil, moving more than 50 cubic yards of soil, all developers, including the Port, must come to the Health Department before a building permit is issued. The Port has always agreed to do that before they issue their own building permits. She has been asked to review the results of soil sampling investigation, health risk assessment done for the HHP after the development. After the park was built, Geometrics was hired by the Port to take soil samples in the area to see what the exposure to adolescents (7-17 year olds) coming to field trips on the park, teachers at the educational facility and recreational users of the park. They performed 13 shallow soil borings, sampled for metals and volatile organic materials that people can inhale and polynuclear aromatic (PNA) materials that often come from burning of materials that may have occurred during the 1906 earthquake that was used for fill or any other type of burning PNAs. Based on the report, they used the upper 95% confidence level which is usually acceptable by the Department of Toxics Substance Control and accepted by the City Health Department. It is one of the most stringent levels that health risk assessments are held to. One of the numbers that always comes out is the $10^{-6}$ cancer risk level in general for any type of chemical that people may be exposed to. Although in many parts of California, it varies from $10^{-4}$ to $10^{-6}$. In San Francisco, she feels more comfortable with $10^{-6}$, which is the most stringent. Based on the calculations that were made, they found some metals on the soil that were above environmental screening levels that were acceptable to Regional Water Quality Control Board and they found polynuclear aromatic chemicals that were also above residential levels. They performed a health risk assessment of the chemicals that the students, the teachers, the recreational users of the park may be exposed to. The levels are actually what's acceptable using the $10^{-6}$ level, their numbers were $10^{-7}$. In terms of health risk assessment for carcinogens, it is much less than the most stringent level that the health department uses. For non-carcinogens, the number anything greater than 1 is a concern, their numbers are less than 1 (.005, .006). With regard to the health risk assessment, the Health Department does not feel that users of the park are exposed to high levels of carcinogens or non-carcinogens in the soil. The one issue is that if the students may be digging in the soil, there may be some ingestion concerns. She will be working with Port staff to develop some type of criteria for that. With just visiting the park, bird watching, identifying plants, etc. there shouldn't be a concern but once they start to dig in or do some other type of work, she has a concern.

Commissioner Hsu asked about soil carried in the sole of the shoes. Ms. Cushing replied that with the development of the park, most of the people would stay on the pathway. The samples were taken off the pathway. Once they leave the park, there is a probability that something would be carried on the sole of the shoes but the levels found are pretty minute. Commissioner Hsu indicated that as long as they stay in the path, there's no contact with the shoes to the soil but there is some risk of ingestion of the soil. If they walk off the path and walk on the dirt, and then take their shoes off, there is a chance that they ingest a substance of some kind. Ms. Cushing indicated that by the item they leave the park, they have walked at other places, on sidewalks, on parking lots, before they step in the car. Commissioner Hsu asked Ms. Cushing if she measured the level of toxicity and the amount of substance they would have to ingest to cause any danger. Ms. Cushing replied that based on this report, they did not feel that ingestion was a concern. However, as

Commissioner Hsu noted knowing children who play with things and just stick their hands in their mouth, she has reservations. Based on the study and their calculations, they did not feel that ingestion was a concern. Commissioner Hsu asked if the report mentioned any risk if a substance is ingested. Ms. Cushing replied that they used three different exposures: (1) thermal, (2) inhalation, and (3) ingestion. Based on the numbers and the type of use at the park, they would not be exposed to the substances because they wouldn't be digging into the soil. Since she's not quite sure what the educational direction is at the park if it's just bird watching, plant identification, playing in the tide pools but not planting seeds or digging in the dirt, it's not a concern. The report mentioned ingestion but the numbers were below levels of concern.

Commissioner Bierman asked if the Port is looking for a new group to run the program at Heron's Head Park and who will they replace. Ms. Bach replied that the Port is trying to make the opportunity to conduct the programs open to a competitive bidding process. Literacy for Environmental Justice has been doing the programs for the last three years and they are extremely qualified and they may do well in the competitive bidding process. However, at this point in the evolution of programs, Port staff feels that the opportunity should be open to other organizations, some of whom, they have just become aware of within the last few months.

Commissioner Bierman asked if there were any complaints about the people who are doing it now. Ms. Bach replied that she has not received any complaints about LEJ except from one or two individuals. Commissioner Bierman indicated that if something is not broke, why mess with it. Ms. Bach replied that it is consistent with the City's emphasis on competitive bidding and making opportunities broadly available and limiting the circumstances under which we issue sole source contracts. Commissioner Bierman indicated that the children who come to the park are used to those people. She asked if the children complained about them. Ms. Bach replied that she has received extremely positive feedback from teachers and volunteer groups and everybody who has worked with LEJ.

Ms. Moyer indicated that it's her understanding that when the Commission approves this contract, it will approve a two-year contract. The contract was extended by one year. The City's policy is that when a contract expires, it requires another selection process. Ms. Bach emphasized that the Mayor's office, the Civil Service Commission and the Human Rights Commission have all indicated a strong disinclination to issue sole source contracts.

Ms. Moyer stated that one way to address this issue is for the Commission to consider a longer contract period with the winning bidder. Neither Port staff nor the Port Commission could circumvent the rules of sole source contracting without cause. As Ms. Bach's pointed out, there are multiple providers of this service so the Port could not seek a waiver on the basis of just having one that is qualified.

Commissioner Bierman indicated that she advocating for the kids. She was on the Board of Supervisors when this program started. It would be tough on the children who are used to this group. It is too bad to not let LEJ continue the program. It's not fair to the children

in the neighborhood, particularly a lot of kids whose parents are working and the kids depend on this kind of program for after school and weekends. It is not helpful to the kids in that neighborhood to be looking to strangers when they are used to going to this place and dealing with the same people. Ms. Bach acknowledged and understood Commissioner Bierman's concerns, as there are advantages to continuing with something that works. Unfortunately, it's the flip side of City policies that were developed to ensure fairness and opportunity for all.

Commissioner Bierman stated that's putting fairness and opportunity ahead of kids. Ms. Moyer pointed out that kids change teachers every year. Commissioner Bierman's point was well taken but the kids are not unused to that concept. It is part of the public school system. Nonetheless, Ms. Moyer pointed out that it's not the Port's policy but it's the City's and the Port is obligated to adhere to it. Given Commissioner Bierman's valid concerns, she suggested considering a longer contract period before the RFP is issued.

Commissioner Bierman indicated that it would not help the children because the Port may pick someone that the kids aren't nearly as happy with. She asked if this is the case of all City programs that after two or three years, another provider is selected. Ms. Moyer mentioned that when Mayor Newsom took office, he sent a letter to all department heads emphasizing his commitment to open contracting procedures and his disinclination to sole source contracts. Ms. Moyer does know if this policy extends to Rec & Park. She believes it does although she does not have personal knowledge of that other than they all received the same letter. Nonetheless, in this particular case, they were told strongly that our request for sole source has been denied. Commissioner Bierman asked who denied it. Ms. Bach replied that HRC and the Mayor's office denied the request.

Commissioner Hsu commented that Environmental Justice can bid on the project and they may very well be the best qualified bidder or the only bidder in this case. The Port is not getting rid of them. Staff is issuing the RFP to ensure fairness to private contractors and to make sure that the Port receives a fair deal. Commissioner Bierman indicated that the kids should come first and taking a chance because of money and uprooting people that the kids are used to is bad policy. Commissioner Hsu stated that it's not only because of money. First of all, the Port has to adhere to the City's policy. It's only fair to other contractors that are able and willing to do this job so that everybody has a fair chance. Commissioner Bierman indicated that she would put the kids in the Bayview who are used to this group first. Commissioner Hsu indicated that the Port is not putting money ahead of the kids. The Port has to adhere to City's policy. The Port is not forgetting about the kids. The kids do come first. The Port is giving the public a fair chance to the RFP. The Port may or may not find a better company than LEJ but there's no way to find out until the process is open to the public. The good work that LEJ has done would be part of the criteria.

Ms. Bach stated that in the Request for Proposals, the proposers will be required to demonstrate their ability and experience with wetland eco-systems, with providing education to urban youth and providing community outreach to non-student population as well. Those are the three key qualifications that the proposers would have to possess.

Commissioner Lazarus stated that part of the problem is the language in the report which states that LEJ is uniquely qualified. It makes her wonder if in fact they are why would the Port have to go through this process. She understands about the City's policy. She had the same question as Commissioner Bierman. Why would the Port look elsewhere if it already has a uniquely qualified organization? Ms. Bach replied that staff felt that, for the past several years, the Port had a uniquely qualified organization. Staff submitted a request for sole source contract on that basis but was denied. Commissioner Lazarus also has a question on the criteria by which they will be evaluated. She pointed out that the report also states that the program has been funded by other sources and staffed by Americorps. She asked if the Port would be looking at other organization's abilities to leverage the City contracts because these programs involve more than just the grant from the Port. Ms. Bach replied affirmatively.

Commissioner Bierman stated that she will go along with the rest of the Commissioners but noted that this is risky for the kids. In her opinion, the Port is putting money ahead of kids.

ACTION: Commissioner Brandon moved approval; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor; Resolution No. 04-54 was adopted.

B. Request for authorization to amend Contract No. 3048-03/04 with Literacy for Environmental Justice to provide education and public participation programs at Heron's Head Park. (Resolution No. 04-55)

Assistant Deputy Director Carol Bach requested Commission's approval to extend LEJ's existing contract which ends on June 30th for three months to enable the Port to go through the solicitation and bidding process and select a contractor. This would allow the programs to continue during the summer when a lot of local organizations, day camps, youth recreation programs are looking for interesting, educational and valuable things to do during the summer. The Port does not want to cut off the services at HHP during this period.

Erin Farrell, resident of India Basin, indicated that Heron's Head Park is an incredible place. It's a very unique resource. It is important to have the programs continue during the summer when the neighborhood children have lack of things to do. Having the activities at HHP is important. She submitted a letter from her neighbor. Her neighbor has attended a couple of the classes with her children and has been very positive about the classes. In terms of the maintenance and the things that are happening at HHP, to have a gap for three months could create problems. There's another shoreline park down the street from HHP that is not maintained by LEJ. As a resident of the neighborhood, she ends up calling the Dept. of Public Works to pick up trash and things that are dumped in the neighborhood. It's really important to have somebody there as a liaison to the Port and to the other public services that are available in the City so there is a flow of information. She supports the extension of time for LEJ for a three-month period.

Francisco Da Costa indicated that if the Commission heard him correctly, he mentioned about the power plant and the pollution and that has never been addressed by one single

speaker today. He also represents the first people of this area, the Muwekma Ohlone. As much as some folks want to call that as a wetland, he does not know what the real definition of a wetland is in reference to this particular piece of land that has a lot of dredged material with radiological substance. He happens to know Ms. Cushing from the Health Department and in many of her statements, she was evasive. Mr. Da Costa told the Commissioners that they gave him no other chance but to go to the Department of Toxic and Substance Control (DTSC) as he did with Pier 92 and he knows he will win. Again, they need imperical data not only of the waters, which are polluted but also imperical data about the land and all aspects of it and most importantly, what was emitted by the old toxic power plant. It's not right to give this contract to anybody.

Commissioner Hsu told Mr. Da Costa that he had already spoken on this subject and that his time was up.

Commissioner Hardeman commented that over the years he has watched Ms. Bach devote her life to these types of projects on the Port particularly Heron's Head Park. He has enjoyed celebrating the graduation ceremonies and awards students received, taking tour with the Head of the Audobon Society and he was able to see more variety of birds than he has ever seen anywhere in the Bay Area. He has kayaked at Elk Horn's, one of the best places on earth to see a variety of birds. They all seem very healthy and happy. They took the tours and stayed on path. The Port has an open space agreement with BCDC, and other organizations to save the bay and organizations to save wetlands. The Port is obligated to pursue its commitments.

Ms. Bach appreciated Commissioner Hardeman's interest and support for the work that staff has been doing at HHP. She recognized that the Port has these commitments to other organizations such as with BCDC and the State, to provide public access but she would not for one minute hesitate to void those agreements if she felt that the Port is putting anybody's health at risk by conducting the programs at HHP. The Port has the imperical data. It's been analyzed consistent with industry practice for conducting human health risk assessment and concluded that the concentrations of constituents that are present do not pose a risk to people using the park the way that they do. She emphasized that whatever the Port's commitments to other bureaucracies to provide public access, staff would not be providing it if it felt that it would be putting anybody in harm's way.

ACTION: Commissioner Brandon moved approval; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor; Resolution No. 04-55 was adopted.

## 7. ADMINISTRATIVE SERVICES

A. Request for approval to accept the Port of San Francisco Nexus Study report prepared by Bay Area Economics. (Resolution No. 04-56)

B. Request for authorization to expend $1 million in Port funds appropriated in Fiscal Year 2003/04 to reimburse the General Fund for City Services received in Fiscal Years 2000/01, 2001/02, 2002/03 and 2003/04. (Resolution No. 04-57)

Deputy Director Tina Olson addressed both Items 7A and 7B as they both pertain to the recently completed Nexus Study. The Port commissioned a Nexus Study in May 2003 and entered into a contract with Bay Area Economics and Yano Accountancy Corporation. The purpose of the Nexus Study was to calculate the costs of the City to provide services to the Port. The services they were looking at were the types of services where it's not easy to identify and enter into a service agreement with the City department. For example, with the Dept. of Telecommunication Information Services, we know how many phones the Port has, there's a phone line and there's a bill associated with it. That was not the type of service they were looking at. The Nexus Study was looking at the more difficult identifiable services such as the Police Department, Fire Department, and Dept. of Parking and Traffic. Item 7A requests for the Commission's approval of the Nexus Study. Staff is looking at two different types of methodologies, one was land based and one was service cost based. We concluded that service cost based is the best methodology. The State Attorney General recommends it. It is the most defensible because it looked at the actual costs of the City departments that provide services to the Port. Again, we were looking at police, fire, DPT (traffic control services). The other part of the Nexus Study was to look at the general fund revenues that the City derives from Port property specifically possessory interest tax, sales tax, parking taxes. It was calculated that the Port generates approximately $20 million a year in tax revenue for the City's General Fund. The Nexus Study did not look at the services that these departments provided to the Port's tenants because those tenants are paying the taxes and they deserve to receive fire, police and parking & traffic services as part of paying the taxes. They looked at the Port's non-lease spaces and the services that were provided. The amount that was calculated going forward is about $787,962. In other words in FY 2003/04, the net cost the Port paid these departments is $787,962. The amount the Port owe for the prior three fiscal years from FY 2000/01, 2001/02, 2002/03 is $278,604. In FY 2003/04, the Port allocated $2 million to the City's General Fund to pay for these services. In FY 2003/04 the Port also budgeted $2 million but the Port Commission asked staff to report on the results of the Nexus Study first.

Item 7B asks the Commission to approve the payment of $1 million. The $1 million is the true up of prior years - the $278,604 plus the current year amount of $787,962 for a total of $1,666,566 but the item asks the Commission to approve a $1 million and to authorize the Executive Director to make any required non-material adjustment based on the final year-end amounts. Staff is still going through the final year-end accounting and there's still final billing that the Port will receive from other City departments.

Ms. Olson introduced Jonathan Stern from Bay Area Economics and acknowledged Andres Acevedo, Port staff, for his work on this project. She also noted that there was a working group that worked with the Port and with Bay Area Economics. They include the Mayor's office, the Controller's Office, the City Attorney's office as well as Port staff. There was a buy-in into the methodology of the study.

Commissioner Hardeman commented that it was a thorough report. Ms. Olson mentioned that the report would help the Port and the City to understand what the City has been providing to the Port and what the Port's obligations are. In the past, there has been a lot of debate and discussion around it. This report should finally put that to rest and gives the

Port methodology for going forward.

Commissioner Lazarus indicated that Ms. Olson agreed on the service-based method. However, page 14 of the report mentioned two service-based methods. She asked if there is method 1 and method 2. She also noticed that the numbers are different and was curious which is which. She asked if everybody agreed on this methodology and if that would be the methodology to be used going forward.

Jonathan Stern replied that the working group analyzed two ways of splitting up the tax paying areas of the Port versus the non-tax paying areas that should be charged and accrued expenses based on the service allocation. It was the basis of discussing about how much land in the Port jurisdiction is leased versus unleased. There were many debates in the working group for example, with the shop owners, they are not just paying for police services to their store but they are paying for the immediate sidewalk and street up front. They further divvied it up and decided that of all the right of ways and of all the sidewalks, etc. they will only charge (method 2) the proportionate share of all of the potentially leasable areas of the Port and that was the portion that should be charged as unleased area. That was the reason why method 2 was significantly lower. Not only is it an unleased area but also the per share of right of way, sidewalks, etc. that are considered to be paid for via the tax paying tenant taxes. In the end, they arrived at using method 1, based on some of the directions of the State Attorney General has given to the Ports of San Diego, and Los Angeles when they have gone through some processes. It's not specific but it refers to all unleased areas such as the right of ways, sidewalks, parks as areas that Port funds could potentially be used to pay for. They're not specific in demand that it's done in this way but it seems to be the general direction that the State Attorney General had been pointing.

Commissioner Lazarus asked for clarification that in accepting the report, the Commission would be accepting that methodology to be used going forward. Ms. Olson replied that would be her preference so that we're clear that is the methodology we're using going forward. Commissioner Lazarus clarified that in other words, we would never have to do a study like this again because we now have a methodology and we just need calculation. Ms. Olson replied affirmatively.

Jonathan Stern commented that when they wrote the report, they deliberately left off a lot of those questions open as policy questions. They believe that from a policy perspective either method 1 or method 2 is an acceptable method for the State Attorney General. It's between the Port and the City to work out which one is the best method. In his opinion, there's no definitive conclusion in the report that method 1 has to be used over method 2.

ACTION: Commissioner Hardeman moved approval; Commissioner Brandon seconded the motion. All of the Commissioners were in favor; Resolution Nos. 04-56 and 04-57 were adopted.

## 8. NEW BUSINESS / AGENDA SETTING

- New Business

Commissioner Hardeman commented that at the last meeting, the Commission complimented Director Moyer for adding the agenda setting section on the agenda. It is a good way to provide the Commission and the public advance notice of what's coming up.

Ms. Moyer noted that under agenda setting: Item 2 has been delayed. Staff is taking longer than anticipated to put together the disclosure to investors. The Federal Open Market Committee is meeting today and the expectation of the market is that they will raise interest rates by at least 25 basis points, if not 50. Obviously, it would have an effect on the Port because that would be short-term rate and this is for the short term remaining life of the bonds at six years. The rating agency meetings were scheduled for June 30 but will now have to be rescheduled because staff has to attend the Board of Supervisors meeting to discuss the Port's budget. Staff has to reset those meetings at one of the busy times for rating agencies. Staff plans to bring the full plan of finance at the next Commission meeting.

Item 3 Disposal of surplus property. Staff committed to bring back a policy but has not yet committed to when that will be coming to the Commission. Staff does not want to lose sight of it so it was placed on the agenda setting section. Now that staff has a little bit more time to work through the National Historic Designation, staff will work on those two things simultaneously.

Commissioner Hardeman congratulated and commended Ms. Moyer for a job well done in representing the Port at the Board of Supervisors hearing.

**9. PUBLIC COMMENT**

Joe Boss stated that he is not against giving a five-year lease to Delancey at Pier 70 and he understands how difficult it's been for the Port to work through the issues of first condemning Pier 36 and scrambling to find a place to move Delancey. He knows that the Port has been in discussions with Delancey about the potential of moving to Building 117 at Pier 70. The issue is, unfortunately, because of the short time line, this matter was not brought to the Pier 70 CAC, the committee that was spearheading the interim lease guidelines with the Port. It's the same group that listened to the grueling scrutiny of Sims' concern about truck traffic, etc. He suggested that the Commission should hold off granting Delancey the five-year lease and instead grant an emergency license for Delancey to move to Pier 70 until the citizens have had an opportunity to review the uses, the densities, etc of their lease. The CAC worked very hard with the Supervisors to release funds for the planning of Pier 70 as well as the backlands. He would not want to jeopardize their goodwill by having this item move forward. It was kind of a short notice type of situation. He understands why and he holds staff harmless. He asked the Commission to talk among themselves and counsel to see if there is some method of allowing Delancey to move at Pier 70 and give the CAC an opportunity to review the five year lease.

In light of Mr. Joe Boss' comments, Commissioner Hsu asked the Commission if they would like to change their vote on Item 4A.

Commissioner Hardeman commented that Mr. Boss is very diligent in being active in his neighborhood and the Commission appreciates his work. As Mr. Boss described, this is an

emergency situation and the Commission hopes that no one is offended by their action and they will try to not let it happen again in the future.

Commissioner Hsu announced that the vote on Item 4A stands.

Dave Burnett, Golden Gateway Resident, representing the Park Rescue Committee which is a group of Golden Gateway residents that have been active in trying to pursue the preservation of ferry park. The Commission may be aware that the Park and Rec Department has issued a study contract to Boris Dramov to upgrade ferry park. Mr. Dramov presented his ideas in a meeting to the community on March 23, 2004 and there were several things that he presented that concerned them. He talked about regrading block 203 which is the area of ferry park, next to Alcoa building, removing matured trees on both parts of the park in order to provide more light and also the possible construction of concession in terms of soft drink vending, etc. on the park to encourage use of the park. Last week, the Abraham Lincoln Brigade (ALB) made a presentation to a group of residents of the Golden Gateway and they are now envisioning an attempt to construct a monument on Port property. The reason this concerns the Port is that the Port has jurisdiction over the most eastern portion of the park. The ALB memorial which is now envisioned as an 80- foot wide edifice would be placed on Port property, north of the Ying & Yang sculpture. This whole thing was scheduled to go before the Rec & Park and Planning Committee on June 2nd, however the item was pulled due to neighborhood opposition and the new community workshop is scheduled for June 30th at Pier 1. The Commission is undoubtedly aware about the history of this area. The demolition of the Embarcadero freeway caused a group of local residents to draft an ordinance at the Board of Supervisors that would transfer this land to the Rec & Park Department. The wording of the actual ordinance states that landscape improvements would be allowed to the extent of pedestrian pathways, gazebos, tables, benches, lighting fixtures, trash receptacles, automatic public toilets, bicycle racks and drinking fountains. At that particular time in drafting the legislation, they purposely left out things like monuments and further building activity on the park because it was the desire of the Board of Supervisor to have this park remain in a fairly natural state. At some point in the future, the Commission will be asked to render its judgement on both the plans for the ferry park upgrade and there will be a fair amount of controversy over the ALB memorial proposal. The concern of the local residents is that once the Port allows one person to build a memorial others are going to follow suit. The Commission is also aware of a proposal to build a butterfly museum on this property. The reason it was transferred to Rec & Park was to stop the construction of activity on the park.

Ernestine Weiss indicated that she's against the ALB memorial too because it's an encroachment on their open space park. It will be 8 feet high and 80 feet wide. People can't be dumping on ferry park for everything that they want to. This is against the ordinance they wrote. There is no building to be put on that park. It is the Port's responsibility to join them and be good neighbors and not to allow that to happen. Ms. Weiss asked about the lack of signs on the Embarcadero. She asked if the Port met with Chief Heather Fong regarding police presence on the waterfront. She also asked if the Port posted any signs for the fire exits on the piers.

Commissioner Hsu reminded Mr. Da Costa as a courtesy to the Commission and everybody in the room to limit his comments to new comments, meaning the ones he has not made

previously today.

Francisco Da Costa indicated that during public comment, they are given three minutes. There is no way that he would know about the three minutes unless it is told to him in some way. During today's deliberations, two items were done illegally. That's for the Commission to consult with their attorney. One item was not addressed properly and the other one was taken out of turn. He came here to ask the Commission if they kept their promise of having a public meeting on the Illinois Street Bridge. That was his intention and then he got involved with the other issues. Now, during public comment, it's not good for the chairperson to intimidate the speaker. That has been done today. There was no way that he would exceed his time and Commissioner Hsu did not allow him in his deliberations to state what he needed to state.

Toby Levine, co-chair of the Pier 70 Advisory Committee, stated that the whole question of the Delancey Street lease as mentioned by Mr. Boss did not come to the CAC. They realized that the Commission is in a very difficult situation. They have to move on a rather quick, short notice but they feel that the Port need to allow proper review. She echoed Mr. Boss's comments regarding giving the CAC a little time to look over the lease. They spent a year and a half on Sims' lease so they can spend a little bit more time with Delancey's lease. There's another issue that's important i.e. the question of 22nd Street. There will be a lot of trucks going in if Delancey Street gets their lease. There will be a lot of trucks coming in and out. Right now, there is a bottleneck. There's only the 20th Street entrance. There's the marshalling yard coming and going. There's Sims. There's a shipyard. It's a lot of activities for one small street. What is going to be done in terms of 22nd Street? Have funds been allocated; have the situation been worked out with Department of Parking & Traffic? She strongly recommended that the Port should give Delancey Street what they need for the moment but also give the CAC an opportunity to look over the project and meet with Delancey and make sure that they are going to be good neighbors.

**10. EXECUTIVE SESSION**

A. Vote on whether to hold closed session to confer with Legal Counsel and Real Property Negotiator.

ACTION: Commissioner Brandon moved approval; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor.

At 4:55 p.m., the Commission withdrew to executive session to discuss the following:

B. CLOSED SESSION

(1) CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING AND ANTICIPATED LITIGATION MATTERS (Discussion Items)

a. Discuss existing and anticipated litigation matters pursuant to Section (a) of California Government Code Section 54956.9 and San Francisco Administrative Code Section 67.10(d) (2 cases):

- In re Pacific Gas and Electric Company, Debtor, United States Bankruptcy Court, Northern District of California, San Francisco; Case No. 01-30923.

- F. Alioto Company, Inc. et al. v. City & County of San Francisco, et al., Superior Court Petition CPF 03-503016.

(2) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – This is specifically authorized under California Government Code Section 54956.8.
***This session is closed to any non-City/Port representative. ****

a. Property: Pier 80
Person Negotiating: Port: Peter Dailey, Director of Maritime
*Marine Terminal Corporation: Ken Passe

(3) PUBLIC EMPLOYEE APPOINTMENT/DISMISSAL/RESIGNATION – This is specifically authorized under California Government Code Section 54957.

- Consideration and Possible Action on Public Employee's Appointment/ Dismissal/Resignation – Deputy Director of Port (No. of Employees Affected 4).

## 11. RECONVENE IN OPEN SESSION

At 5:55 p.m., the Commission withdrew from executive session and reconvened in open session.

ACTION: Commissioner Hardeman moved approval to adjourn executive session and reconvene in open session; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor.

ACTION: Commissioner Hardeman made a motion to disclose that the Port Commission gave direction to staff to withdraw the Port's claim with PG&E, Case No. 01-30923, provided that PG&E completes the required work and made a motion to not disclose any other information discussed in executive session; Commissioner Lazarus seconded the motions. All of the Commissioners were in favor.

## 12. ADJOURNMENT

ACTION: Commissioner Hardeman moved approval to adjourn the meeting; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor.

Commission President Wilfred Hsu adjourned the meeting at 5:57 p.m.

HOUCHEN
BINDERY LTD
UTICA/OMAHA NE.
2004